

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS: CRIMINAL TERM: PART 2

3 -----X
4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

Indictment No.:
6615/2012
(Trial)

6 ATARA WISDOM,

7 Defendant.
8 -----X

9 Supreme Courthouse
10 320 Jay Street
11 Brooklyn, New York 11201
12 June 30, 2014

13 B E F O R E:

14 THE HONORABLE ALBERT TOMEI, JUSTICE

15 A P P E A R A N C E S:

16 HON. KENNETH P. THOMPSON, ESQ.
17 District Attorney - Kings County
18 350 Jay Street
19 Brooklyn, New York 11201
20 BY: PHYLLIS CHU, ESQ.
21 Assistant District Attorney

22 DAVID WALENSKY, ESQ.
23 Attorney for Defendant
24 910 Stuart Avenue
25 Mamaroneck, New York
BY: DAVID WALENSKY, ESQ.
- and -
JOSHUA POVILL, ESQ.

MARLIN CASSIDY
Senior Court Reporter

Proceeding

1 (Whereupon, the following took place in open
2 court:)

3 THE CLERK: Your Honor, this is calendar
4 number one, case on trial, Indictment 6615 of 2012,
5 People versus Atara Wisdom.

6 Defendant is incarcerated, produced, before
7 the Court, present with his attorney, appearances are
8 the same -- with her attorney.

9 THE COURT: There is an application here?

10 MS. CHU: Yes, your Honor.

11 There is a 911 call that we have that was
12 placed by our deceased on November the 29th of 2011.
13 We'd like to have that deemed admissible on our direct
14 case to show --

15 THE COURT: What year was that, 2000 and what?

16 MS. CHU: 2011. November 29th, 2011.

17 It was about 12:00 something in the morning on
18 November 29th. I have a memorandum of law that I
19 prepared.

20 THE COURT: Well, what's the call?

21 MS. CHU: The call, substance of the call,
22 is --

23 THE COURT: Who is it from?

24 MS. CHU: It's from the victim, I got this
25 girl in my house and I don't know what's wrong with her,

Proceeding

1 she's acting all crazy and I want her out of my house.
2 The phone call gets disconnected. Because it's not a
3 landline, it's an cellphone, they are not able to get
4 anything as far as location or where to go, so police
5 are unable to investigate it any further.

6 We have this on his phone records, saying he
7 called 911. At this time we actually have the actual
8 tape, 911 tape, and the People would argue that it is
9 admissible under the present sense impression and the
10 excited utterance exception to the hearsay rule, and we
11 have the memorandum of law that is -- that supports the
12 People's position.

13 THE COURT: What's the response?

14 MR. WALENSKY: Your Honor, there are two
15 prongs to this one, is it admissible under the excited
16 utterance, does the prejudice far outweigh the probative
17 value. During the evening of this call we actually
18 don't know when this man is killed. Time of death was
19 never set, the date itself was never set. We don't know
20 what it refers to, whether it refers to this incident or
21 something else, and so absent any background or
22 testimony, it is just this man calling. We don't know
23 if there's an upsetment, an intervening event, things
24 calm down and something happened.

25 It's significant, there's nothing on the call

Proceeding

1 like look out or ouch or hearing anything, it
2 essentially just cuts off with that and --

3 THE COURT: Do you have the records?

4 MS. CHU: I do have the record.

5 THE COURT: Do the records show --

6 MS. CHU: The cellphone shows that he makes a
7 911 call at a little bit after midnight on November the
8 29th and subsequently, after he makes that 911 call, the
9 phone numbers that are called by my victim's phone are
10 consistent with the defendant's cellphone numbers that
11 she calls. So, we know that there's a transition so --
12 'cause we have a witness that she makes third-party
13 admissions to who says she calls from the victim's phone
14 so when he answers the phone he thinks it's the victim,
15 it's actually the defendant calling him. That is where
16 the third-party admission comes in.

17 We will have --

18 MR. WALENSKY: No.

19 MS. CHU: -- phone records that corroborate
20 that his phone called our witness's phone and then
21 subsequent to that the pattern of phones calls that are
22 made by my victim's phone mirror what the defendant's
23 pattern of phone calls are from her cellphone.

24 MR. WALENSKY: What was said --

25 MS. CHU: In addition to that, your Honor, I'm

Proceeding

1 sorry, the ME will be able to corroborate that the time
2 of death, although they can't pinpoint an exact time,
3 that it's consistent, that November 29th, 2011 is
4 consistent with the manner of death as far as the amount
5 of decay, that the deceased had been dead for quite some
6 time, there's mummification, part of th head and body,
7 he had maggots. Everything is consistent. He had
8 maggots in him.

9 THE COURT: How long was he in the apartment
10 before they discovered him?

11 If we presume that the 911 call was on
12 November 29th, 2011, was when everything occurred, he
13 wasn't found until January 3rd, 2012, what is her
14 admission?

15 MS. CHU: She was living with him and that she
16 was giving him money, he also wanted to have sex with
17 her, she wasn't going to do that, so she basically, in
18 her statements to the police, said that he tried to rape
19 her so she had to defend herself and she stabbed him and
20 then left.

21 THE COURT: Does she give the time or date?

22 MS. CHU: She doesn't say the time or the
23 date. But I know we have family members and the last
24 time that they saw him was around Thanksgiving, that the
25 29th would have been right after that Thanksgiving.

Proceeding

1 MR. WALENSKY: She tells the police in the
2 video statement, the Court will see that, she thinks she
3 woke up at about 2:00 or 3:00 and he's grabbing her,
4 he's trying -- this is when he is assaulting her, around
5 2:00 in the morning, she is not really sure, she's not
6 looking at a watch. We believe that, again, the
7 prejudice far outweighs the probative value of this
8 because we have -- it's just a bald statement, we have
9 nothing else, and there is nothing else on this.

10 As I said, there is no notice of any
11 intervening actions that could have been occurring. It
12 may have stopped, she may not have been crazy at 12:30,
13 stops, goes to sleep and picks up then.

14 THE COURT: I am going to allow it under
15 present sense impression.

16 MR. WALENSKY: Note my exception.

17 THE COURT: Okay.

18 What else? Is that it? Is that it?

19 MS. CHU: That is all for me.

20 THE CLERK: I think we are up to the lawyers.

21 THE COURT: Yes, the lawyers.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 MR. WALENSKY: Your Honor, if we have another
25 panel, could I request that you remind them, if there's

Voir Dire

1 THE COURT: All right.
2 Perempt?
3 MS. CHU: Up to nine?
4 THE COURT: Well, it's not up to nine.
5 It's --
6 MS. SCHWARTZKOPF: Yes.
7 THE COURT: I'm sorry, yes.
8 MS. CHU: No perempts by the People.
9 THE COURT: Defense?
10 MR. WALENSKY: Number seven.
11 THE COURT: Nuciforo?
12 MR. WALENSKY: Nuciforo, yes.
13 THE COURT: Who else?
14 MR. WALENSKY: Number eight, Mr. Healey.
15 And number nine, Mr. O'Connell.
16 THE CLERK: Your Honor, juror number four is
17 Cleo Gray.
18 Juror five is Elizabeth Sanchez.
19 THE COURT: Hold on one minute. Hold on.
20 (Whereupon, there was a brief pause in the
21 proceedings.)
22 THE COURT: Sanchez is five?
23 THE CLERK: Yes.
24 THE COURT: Okay.
25 Is that it?

Voir Dire

1 THE CLERK: Juror number six is Margaret
2 Gabriel.

3 THE COURT: She's number twelve.

4 THE CLERK: Seat six is now juror six, Judge.

5 MS. SCHWARTZKOPF: Margaret Gabriel is in seat
6 six.

7 THE CLERK: She's also juror six.

8 THE COURT: So she's selected.

9 THE CLERK: So the next six, Olibris, Perrier,
10 Rossi, Crockett.

11 MS. CHU: Dixon and O'Reilly.

12 THE COURT: Dixon and O'Reilly.

13 Cause?

14 MS. CHU: Your Honor, I would challenge number
15 ten for cause. She said something about she's on
16 vacation right now, she has to return on the 1st. She
17 said that she didn't -- she says she thought it would be
18 a problem for her to be out of work.

19 THE COURT: Denied.

20 Cause?

21 MR. WALENSKY: We're through sixteen?

22 MS. SCHWARTZKOPF: Fifteen.

23 MR. WALENSKY: Nothing for cause.

24 THE COURT: Perempt?

25 MS. CHU: People challenge juror number ten.

Voir Dire

1 Juror number fourteen.

2 THE COURT: Dixon?

3 MS. CHU: Yes.

4 And that's it.

5 THE COURT: Defendant?

6 MR. WALENSKY: Number eleven.

7 Number --

8 THE CLERK: Whoa.

9 THE COURT: Go ahead.

10 MR. WALENSKY: Number fifteen.

11 THE COURT: Is that it?

12 MR. WALENSKY: One moment.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 MR. WALENSKY: That's it, your Honor.

16 THE CLERK: Juror number seven is Samuel
17 Rossi.

18 Juror number eight is Jonathan Crockett.

19 THE COURT: All right.

20 Sixteen -- sixteen, seventeen and nineteen,
21 cause?

22 MS. CHU: None for the People.

23 THE COURT: Cause?

24 MR. WALENSKY: I'm not sure about Ms.
25 Jablonska, language.

Voir Dire

1 THE COURT: Not sure why?

2 MR. WALENSKY: I don't know that she has a
3 good enough facility of language.

4 THE COURT: Denied.

5 Perempt?

6 MS. CHU: People challenge juror number
7 twenty.

8 MS. SCHWARTZKOPF: We are not up to twenty.

9 THE CLERK: We are not up to twenty.

10 MS. CHU: Oops.

11 THE CLERK: Sixteen to nineteen.

12 MS. CHU: Up to nineteen, no.

13 THE COURT: Perempt?

14 MR. WALENSKY: Number sixteen.

15 Number --

16 THE COURT: Who? Number sixteen?

17 MR. WALENSKY: Yes.

18 Number eighteen.

19 That's all.

20 THE CLERK: Juror number nine is Deanna
21 Clements.

22 Juror ten is Blessing Fadaka.

23 THE COURT: Twenty, cause?

24 MS. CHU: No.

25 THE COURT: Cause?

Voir Dire

1 MR. WALENSKY: No.

2 THE COURT: Perempt?

3 MS. CHU: People challenge.

4 THE CLERK: So far the People have used a
5 total of eleven perempts, the defense fourteen.

6 THE COURT: How many did the D.A. use?

7 MS. CHU: Just this round, Judge?

8 MS. SCHWARTZKOPF: Three for the People, seven
9 for defense.

10 THE CLERK: I'm doing it cumulatively.

11 THE COURT: Seven for the defense?

12 MS. SCHWARTZKOPF: Yes.

13 THE CLERK: But I do it cumulatively.

14 THE COURT: I am just asking, that's all.
15 Let's go bring them in.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 (Whereupon, the panel of prospective jurors
19 entered the courtroom.)

20 THE COURT: Have a seat in the first two rows,
21 please.

22 THE CLERK: Did someone bring a child?

23 What is your name, ma'am?

24 PROSPECTIVE JUROR: Blessing.

25 THE CLERK: Is that your child?

Voir Dire

1 PROSPECTIVE JUROR: My babysitter didn't show
2 up, she's out of town.

3 THE COURT: Only those that were in the box.
4 Only those who were in the box, please.

5 (Whereupon, the panel of prospective jurors
6 exited the courtroom.)

7 THE CLERK: Were you seated here?

8 PROSPECTIVE JUROR: Cleo Gray.

9 THE CLERK: Okay.

10 Ma'am, you can have a seat.

11 Okay, if you hear your name called, ladies and
12 gentlemen, that means you have been selected to serve as
13 a juror. If do you not hear your name called, you are
14 excused with the thanks of the Court. Go back down to
15 the second floor, Central Jury, if you don't hear your
16 name called. If you hear your name called please say
17 "here" or "present."

18 Juror number four will be Cleo Gray.

19 Say "here" or "present."

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: Juror number five, Elizabeth
22 Sanchez.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: Juror number six, Margaret
25 Gabriel.

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE CLERK: Juror number seven, Samuel Rossi.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: Juror number eight, Jonathan

5 Crockett.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: Juror number nine, Deanna

8 Clements.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: And juror number ten, Blessing

11 Fadaka.

12 PROSPECTIVE JUROR: Here.

13 THE CLERK: The rest of you can return to

14 Central Jury, if you didn't hear your name called.

15 (Whereupon, the panel of prospective jurors
16 exited the courtroom.)

17 THE COURT: Come on up.

18 Ms. Blessing, you are excused.

19 How many? We have nine now?

20 THE CLERK: Yes.

21 (Whereupon, the prospective juror exited the
22 courtroom.)

23 THE CLERK: All right.

24 Will the six of you please rise and raise your
25 right hand.

Voir Dire

1 Do you and each of you sincerely and solemnly
2 swear or affirm that you will try this case in a just
3 and impartial manner, to the best of your judgment, and
4 you will render a verdict according to the law and
5 evidence?

6 What is your response?

7 (Whereupon, the jurors responded.)

8 THE CLERK: Please see the Court Officer.

9 COURT OFFICER: Step this way.

10 (Whereupon, the jurors exited the courtroom.)

11 THE COURT: Get the rest of them. Please have
12 them seated on the right.

13 COURT OFFICER: Panel entering.

14 (Whereupon, the panel of prospective jurors
15 entered the courtroom.)

16 THE COURT: Sit on the right side, please.

17 Thank you.

18 Who has a child?

19 What is your name, ma'am?

20 PROSPECTIVE JUROR: Ann Osibodu,
21 O-S-I-B-O-D-U.

22 THE COURT: Why did you bring your child?

23 PROSPECTIVE JUROR: Because I have no
24 babysitter, nobody to watch him for me.

25 THE CLERK: First name?

Voir Dire

1 PROSPECTIVE JUROR: Ann.

2 THE COURT: You are excused, ma'am. Second
3 floor, Central Jury.

4 You are excused. Take your child with you, go
5 down to the second floor.

6 PROSPECTIVE JUROR: Thank you, sir.

7 THE COURT: Fill the box.

8 THE CLERK: Seat number one is Harris Edelman.

9 PROSPECTIVE JUROR: Edelman (pronunciation).

10 THE CLERK: E-D-E-L-M-A-N.

11 Seat two, is Tinnel (phonetic) Herald.

12 First name Tinnel, Herald, H-E-R-A-L-D-O, is
13 her last name.

14 Seat three is Adrian (phonetic) Yorker,
15 Y-O-R-K-E-R.

16 PROSPECTIVE JUROR: Here.

17 Seat four is Ilia (phonetic) Yudin.

18 PROSPECTIVE JUROR: Here.

19 THE CLERK: Y-U-D-I-N.

20 Seat five is Brady Clark, C-L-A-R-K.

21 PROSPECTIVE JUROR: Present.

22 THE CLERK: Seat six is Rebecca Mamer.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: M-A-M-E-R.

25 Seat seven is Renee (phonetic) Hernandez.

Voir Dire

1 PROSPECTIVE JUROR: Here.

2 THE CLERK: H-E-R-N-A-N-D-E-Z.

3 Seat eight is Olusegun, O-L-U-S-E-G-U-N, last
4 name is Adedeji, A-D-E-D-E-J-I.

5 Seat nine is Elsie Comer, C-O-M-E-R.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: And seat ten is Jaweed (phonetic)
8 Ahmed.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: A-H-M-E-D.

11 THE COURT: Mr. Edelman, your neighborhood?

12 PROSPECTIVE JUROR: Edelman (pronunciation).

13 THE COURT: Edelman, I'm sorry.

14 PROSPECTIVE JUROR: Greenpoint, Brooklyn.

15 THE COURT: Ms. Herald?

16 PROSPECTIVE JUROR: East Flatbush.

17 THE COURT: Mr. Yorker?

18 PROSPECTIVE JUROR: Bay Ridge.

19 THE COURT: Mr. Yudin?

20 PROSPECTIVE JUROR: Homecrest.

21 THE COURT: Homecrest.

22 And Mr. Clark?

23 PROSPECTIVE JUROR: Prospect Heights.

24 THE COURT: Ms. Mamer?

25 PROSPECTIVE JUROR: Greenpoint.

Voir Dire

1 THE COURT: Mr. Ahmed?

2 PROSPECTIVE JUROR: Sheepshead Bay.

3 THE COURT: And Ms. Comer?

4 PROSPECTIVE JUROR: East New York.

5 THE COURT: And Mr. Adedeji?

6 PROSPECTIVE JUROR: Bushwick.

7 THE COURT: Bushwick?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And Mr. Hernandez?

10 PROSPECTIVE JUROR: Bensonhurst.

11 THE COURT: Bensonhurst, all right.

12 First row, any of you ladies and gentlemen
13 familiar with the crime scene area, 832 Bushwick Avenue?

14 Second row, anyone?

15 Mr. Edelman, married --

16 MS. CHU: Your Honor, I'm sorry, juror five
17 raised their hand.

18 THE COURT: Mr. Clark, you are familiar with
19 the area?

20 PROSPECTIVE JUROR: Some friends lived out
21 that way, Stockholm, Bushwick.

22 THE COURT: All right.

23 Thank you.

24 Mr. Edelman, married, single, separated,
25 divorced?

Voir Dire

1 PROSPECTIVE JUROR: Unmarried.

2 THE COURT: You're married?

3 PROSPECTIVE JUROR: Unmarried.

4 THE COURT: You are not married?

5 PROSPECTIVE JUROR: Not married.

6 THE COURT: Single?

7 PROSPECTIVE JUROR: Well, I'm not married. We

8 have --

9 THE COURT: You have a relationship?

10 PROSPECTIVE JUROR: I have relations.

11 THE COURT: Are you in a relationship now?

12 That's my question.

13 PROSPECTIVE JUROR: How would that affect --

14 THE COURT: Because if you're in a relation,
15 then I'd like to know what your partner does or doesn't
16 do or whatever.

17 PROSPECTIVE JUROR: I'm in a relationship.

18 THE COURT: Thank you.

19 So, okay.

20 And your occupation?

21 PROSPECTIVE JUROR: Computer science.

22 THE COURT: And your partner's?

23 PROSPECTIVE JUROR: Merchandising.

24 THE COURT: Thank you.

25 Ms. Heraldo?

Voir Dire

1 PROSPECTIVE JUROR: I'm single.

2 THE COURT: What kind of work do you do?

3 PROSPECTIVE JUROR: I'm a file clerk.

4 THE COURT: You have to speak up.

5 PROSPECTIVE JUROR: File clerk.

6 THE COURT: Thank you very much.

7 Mr. Yorker?

8 PROSPECTIVE JUROR: Married.

9 THE COURT: Your occupation?

10 PROSPECTIVE JUROR: Unemployed. Stay-at-home
11 dad.

12 THE COURT: What did you do when you worked?

13 PROSPECTIVE JUROR: I did -- I worked for
14 1-800-Got Junk. I removed items from businesses and
15 homes.

16 THE COURT: What exactly?

17 PROSPECTIVE JUROR: I remove unwanted items.
18 Like a moving person, manual labor.

19 THE COURT: And your spouse?

20 PROSPECTIVE JUROR: She's a director for an ad
21 agency.

22 THE COURT: Okay.

23 Mr. Yudin?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Married, single, separated,

Voir Dire

1 divorced?

2 PROSPECTIVE JUROR: Married.

3 THE COURT: Your occupation?

4 PROSPECTIVE JUROR: I work for the New York
5 Times. I'm a computer person there.

6 THE COURT: Okay.

7 And your spouse?

8 PROSPECTIVE JUROR: She's not employed
9 currently.

10 THE COURT: What did she do when she worked?

11 PROSPECTIVE JUROR: Several -- various things,
12 including writing, reporting for a local newspaper,
13 doing computers.

14 THE COURT: All right, thank you.

15 Mr. Clark?

16 PROSPECTIVE JUROR: I had a relationship but
17 not married.

18 THE COURT: And your occupation?

19 PROSPECTIVE JUROR: I work in music publishing
20 and licensing.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR: AR guy, sign bands, help
23 them with their legal contracts, stuff like that.

24 THE COURT: You sign bands, you said?

25 PROSPECTIVE JUROR: Yeah, for a publishing

Voir Dire

1 company, music publishing.

2 THE COURT: Are you an agent?

3 PROSPECTIVE JUROR: AR guy.

4 THE COURT: Music agent?

5 PROSPECTIVE JUROR: Essentially.

6 THE COURT: Okay.

7 And your partner?

8 PROSPECTIVE JUROR: She's a director for a
9 digital -- advertising digital media company.

10 THE COURT: She's in advertising, you said?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you.

13 Ms. Mamer?

14 PROSPECTIVE JUROR: Engaged.

15 THE COURT: Okay.

16 And your occupation?

17 PROSPECTIVE JUROR: I'm a bartender.

18 THE COURT: Okay.

19 And you have a significant other?

20 PROSPECTIVE JUROR: He does film related
21 contract work, mainly screenwriting research. He's
22 associate producing a film right now.

23 THE COURT: Indie?

24 PROSPECTIVE JUROR: It's an IMAX movie.

25 THE COURT: Oh.

Voir Dire

1 Thank you.

2 Mr. Ahmed?

3 PROSPECTIVE JUROR: Married.

4 THE COURT: Occupation?

5 PROSPECTIVE JUROR: Dietician.

6 THE COURT: And your spouse?

7 PROSPECTIVE JUROR: She's a stay-at-home mom
8 at this time.

9 THE COURT: Okay.

10 Did she work at all?

11 PROSPECTIVE JUROR: Yes, but not in this
12 country. She just came a few years ago.

13 THE COURT: Ms. Comer?

14 PROSPECTIVE JUROR: I'm a nurse.

15 THE COURT: Married, single?

16 PROSPECTIVE JUROR: Single.

17 THE COURT: Single.

18 You're an R.N.?

19 PROSPECTIVE JUROR: LPN.

20 THE COURT: Thank you very much.

21 And Mr. Adedeji.

22 PROSPECTIVE JUROR: Adedeji (pronunciation.)

23 THE COURT: Adedeji, okay.

24 Are you married?

25 PROSPECTIVE JUROR: Married.

Voir Dire

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THE COURT: And your occupation?

PROSPECTIVE JUROR: Attorney.

THE COURT: Excuse me?

PROSPECTIVE JUROR: Attorney.

THE COURT: You're an attorney?

PROSPECTIVE JUROR: Yes, your Honor.

THE COURT: What kind of law do you practice?

PROSPECTIVE JUROR: Essentially, civil.

THE COURT: Civil?

PROSPECTIVE JUROR: Yes.

THE COURT: And your spouse?

PROSPECTIVE JUROR: Physical therapist.

MS. CHU: I'm sorry?

PROSPECTIVE JUROR: Physical therapist.

MS. CHU: Physical therapist.

THE COURT: Physical therapist, I'm sorry.
Mr. Hernandez?

PROSPECTIVE JUROR: Engaged.

THE COURT: Okay.

And your occupation?

PROSPECTIVE JUROR: Handyman.

THE COURT: All right.

And your significant other?

PROSPECTIVE JUROR: Customer service.

THE COURT: What?

Voir Dire

1 PROSPECTIVE JUROR: She's customer service.

2 THE COURT: Customer service.

3 First row, any of you ladies and gentlemen
4 ever serve on a jury before?

5 Second row, anyone?

6 Yes, Ms. Comer?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: What kind of jury were you on?

9 PROSPECTIVE JUROR: Civil. I sat on a civil
10 case.

11 THE COURT: Okay.

12 First row, any of you ladies and gentlemen
13 ever been the victim of a crime, or someone close to
14 you?

15 All right, I will start with Mr. Edelman.

16 PROSPECTIVE JUROR: I was mugged at
17 knifepoint.

18 THE COURT: You were robbed when?

19 PROSPECTIVE JUROR: 1985, late '80s, New York
20 City.

21 THE COURT: You were robbed at knifepoint?

22 PROSPECTIVE JUROR: My motorcycle has been
23 stolen twice. Different motorcycles, not the same one.
24 Twice.

25 THE COURT: So you had two --

Voir Dire

1 PROSPECTIVE JUROR: Two motorcycles, two
2 different motorcycles, two different occasions.

3 THE COURT: Okay.

4 Anything else?

5 PROSPECTIVE JUROR: My brother was mugged.

6 THE COURT: Your mother was robbed?

7 PROSPECTIVE JUROR: Robbed.

8 THE COURT: Was that at knifepoint?

9 PROSPECTIVE JUROR: I should differentiate. I
10 don't know the difference between mugged and robbed.

11 THE COURT: There is no such legal term as
12 "mugged."

13 PROSPECTIVE JUROR: I'm not a lawyer.

14 THE COURT: Property taken by force?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Then it's robbery.

17 PROSPECTIVE JUROR: Then a robbery. Property
18 taken from me by force, from my brother as well,
19 skateboard, I think, and bicycle.

20 THE COURT: Was a weapon involved?

21 PROSPECTIVE JUROR: Yes, knife. In every
22 occasion.

23 THE COURT: Anything else?

24 PROSPECTIVE JUROR: My uncle was burglarized
25 for sure twice, as were my parents.

Voir Dire

1 THE COURT: They were home?

2 PROSPECTIVE JUROR: They weren't home. And
3 stuff was taken.

4 THE COURT: Were all of these reported?
5 Were yours reported?

6 PROSPECTIVE JUROR: Mine, the motorcycle
7 thefts, for sure. It's the last five, ten years. I was
8 robbed as a kid growing up in New York City. I don't
9 even know, I mean --

10 THE COURT: You were a kid?

11 PROSPECTIVE JUROR: Yeah, yeah.

12 THE COURT: How old?

13 PROSPECTIVE JUROR: Like ten to thirteen.

14 THE COURT: Probably didn't report it.

15 PROSPECTIVE JUROR: I mean, I don't recall.
16 But for sure, I mean, it was in the '80s in New York
17 City.

18 THE COURT: All right, thank you.

19 PROSPECTIVE JUROR: You're welcome.

20 THE COURT: Anyone else?

21 Just raise your hand.

22 Mr. Yorker?

23 PROSPECTIVE JUROR: My stepbrother's son was
24 shaken to death by a non-family member.

25 THE COURT: It's called shaken baby syndrome?

Voir Dire

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: What happened to your
3 stepbrother?

4 PROSPECTIVE JUROR: The person who did it is
5 still in jail.

6 THE COURT: I mean, the --

7 So he went to trial or pled guilty?

8 PROSPECTIVE JUROR: My stepbrother didn't do
9 it. He had broken up with the --

10 THE COURT: The person that did.

11 PROSPECTIVE JUROR: The person that did it is
12 currently in jail.

13 THE COURT: Okay.

14 Who else raised their hand?

15 Mr. Clark?

16 PROSPECTIVE JUROR: My father was robbed at
17 gunpoint in New York, late '80s.

18 THE COURT: Anything else?

19 PROSPECTIVE JUROR: And I had a close friend
20 who was a victim of a hate crime in Bushwick, actually.

21 THE COURT: Assaulted or what?

22 PROSPECTIVE JUROR: He was beaten close to
23 death.

24 THE COURT: Was a weapon involved?

25 PROSPECTIVE JUROR: Just hands.

Voir Dire

1 THE COURT: Fists?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: More than one person?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay.

6 Who else?

7 Ms. Mamer?

8 PROSPECTIVE JUROR: My brother was jumped and
9 beaten pretty badly.

10 It was part of like a string of incidents in
11 Seattle. I think they caught some of the guys but not
12 all of them.

13 THE COURT: Was he injured seriously?

14 PROSPECTIVE JUROR: Yeah. They broke his eye
15 socket. He was kind of unrecognizable.

16 THE COURT: Sorry about that.

17 PROSPECTIVE JUROR: Also, I was assaulted by
18 an ex-boyfriend about five years ago.

19 THE COURT: Was he arrested?

20 PROSPECTIVE JUROR: No. I didn't report it.

21 THE COURT: Why?

22 PROSPECTIVE JUROR: We were alone in his
23 apartment, I didn't have proof, I didn't want to go
24 through it.

25 THE COURT: Were you injured?

Voir Dire

1 PROSPECTIVE JUROR: Not seriously. Pretty
2 bruised. I fought him off before it got pretty bad.

3 THE COURT: Did the police come?

4 PROSPECTIVE JUROR: I'm sorry?

5 THE COURT: Did the police come?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Anyone else?

8 Second row, been the victim of a crime or
9 someone close to you?

10 Yes, Mr. Adedeji?

11 PROSPECTIVE JUROR: Close family friend was
12 just recently the victim of a carjacking.

13 THE COURT: Close friend of yours?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: He was the victim of a carjacking?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Was he injured, or she?

18 PROSPECTIVE JUROR: She wasn't injured. She
19 managed to escape the perpetrator.

20 THE COURT: Anyone else?

21 First row, any of you ladies and gentlemen
22 ever accused of, arrested for, or convicted of a crime,
23 or someone close to you?

24 Mr. Yorker?

25 PROSPECTIVE JUROR: I was smoking weed on the

Voir Dire

1 Lower East Side and I was arrested.

2 THE COURT: So you were arrested or were you
3 given a summons?

4 PROSPECTIVE JUROR: I was arrested. I did one
5 day community service.

6 THE COURT: Thank you.

7 Anyone else?

8 Mr. Clark?

9 PROSPECTIVE JUROR: I got an open container
10 and paid the ticket.

11 THE COURT: Was that beer?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Anyone else?

14 Mr. Hernandez?

15 PROSPECTIVE JUROR: My ex-wife sent me to
16 jail.

17 THE COURT: Your ex-wife is what?

18 PROSPECTIVE JUROR: Sent me to jail.

19 THE COURT: She is in jail?

20 PROSPECTIVE JUROR: No, she sent me to jail.

21 THE COURT: Sent you to jail?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Was it domestic violence?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: What happened?

Voir Dire

1 I mean, when she reported this to the police.

2 PROSPECTIVE JUROR: She reported to the police

3 but --

4 THE COURT: Then what happened?

5 PROSPECTIVE JUROR: Obviously they believed

6 her, not me.

7 THE COURT: So then what happened? Did you --

8 PROSPECTIVE JUROR: I went to court.

9 THE COURT: How long did you go to jail for?

10 PROSPECTIVE JUROR: Two days. Then I did

11 anger management.

12 THE COURT: Community service, anger

13 management?

14 PROSPECTIVE JUROR: Yes, pay a fine.

15 THE COURT: Okay.

16 You going to hold it against anybody in this

17 case, the police, D.A.?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay.

20 First row, any of you ladies and gentlemen

21 related to, friendly, interact with any attorneys or law

22 enforcement agents?

23 Mr. Edelman?

24 PROSPECTIVE JUROR: I have close friends and

25 family that are attorneys, including a U.S. attorney,

Voir Dire

1 A.D.A. in Suffolk County, married to a police officer,
2 married to an attorney in New York City. My cousin is
3 an attorney. My uncle was a New York City police
4 officer, he's eighty-four years old now so he's retired
5 almost forty years but he was a New York City officer in
6 Brooklyn. And I have friends, of course, that are
7 attorneys as well.

8 THE COURT: Who else?

9 Ms. Herald?

10 PROSPECTIVE JUROR: I work for a law firm.

11 THE COURT: What kind of law firm?

12 PROSPECTIVE JUROR: Corporate law.

13 THE COURT: Okay.

14 Who else?

15 Mr. Yorker.

16 PROSPECTIVE JUROR: I have a bunch of friends
17 that are either lawyers or police officers through the
18 dart leagues that I play in the City and Brooklyn, an
19 acquaintances that actually works right here on the
20 floor.

21 THE COURT: As a Court Officer?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Okay.

24 Who else?

25 Mr. Clark?

Voir Dire

1 PROSPECTIVE JUROR: I have various members of
2 my family in the Armed Forces.

3 THE COURT: In the Armed Forces?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I am talking about law
6 enforcement.

7 PROSPECTIVE JUROR: As part of my job I work
8 with our legal team, contract law, licensing agreements,
9 signing bands.

10 THE COURT: You socialize with any of these
11 attorneys?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Who else?

14 Ms. Mamer?

15 PROSPECTIVE JUROR: I have a good friend who
16 was working with the 7th Precinct. He is in Manhattan,
17 the detective squad.

18 My fiancée used to share an apartment with him
19 and --

20 THE COURT: A good friend is in the Manhattan
21 detective squad and what was the last thing?

22 PROSPECTIVE JUROR: My fiancée used to share
23 an apartment with him.

24 THE COURT: Who? Your fiancée?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: Okay.

2 Who else? Anyone else?

3 Mr. Adedeji?

4 PROSPECTIVE JUROR: Aside from myself, I have
5 a close relationship with an attorney in general
6 practice.

7 THE COURT: You have a general practice?

8 PROSPECTIVE JUROR: I work with somebody also
9 in general practice.

10 THE COURT: Okay.

11 Do you have a partner or you share an office?

12 PROSPECTIVE JUROR: Personally I'm by myself,
13 solo.

14 THE COURT: But you have a friend who's an
15 attorney?

16 PROSPECTIVE JUROR: Yes. General
17 practitioner.

18 THE COURT: Okay.

19 First row, can you be fair and impartial in
20 this case?

21 Mr. Edelman?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Ms. Herald?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Mr. Yorker?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Mr. Yudin?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Mr. Clark?

5 PROSPECTIVE JUROR: I'm not sure.

6 THE COURT: Why not?

7 PROSPECTIVE JUROR: I have some -- well, after
8 seeing last week, I have some issues with the lack of
9 evidence that the People talked about. We can talk
10 about that later.

11 THE COURT: You have to talk about it now.
12 There is no evidence yet.

13 PROSPECTIVE JUROR: Right.

14 THE COURT: There is no evidence in the sense
15 that you haven't heard anything.

16 PROSPECTIVE JUROR: Well, they -- they have
17 kind of been mentioning that there's no evidence.

18 THE COURT: There is evidence going to be
19 presented by the People but it's not necessarily in the
20 form that you might want. Like I don't know what you're
21 looking for, but the fact is that you don't know
22 anything about this case right now.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: Other than not knowing anything
25 about this case, how have you arrived at an opinion?

Voir Dire

1 PROSPECTIVE JUROR: From viewing the
2 interviews last week.

3 THE COURT: What are you expecting? What
4 would you be expecting, scientific evidence, forensic
5 evidence? What?

6 PROSPECTIVE JUROR: As part of my work I do a
7 lot of disputes between publishing companies and, you
8 know, there's always contracts involved, signed
9 documents, and there's always proof of who's --

10 THE COURT: That's something that -- and you
11 have to determine whether those documents meet your
12 requirements, is that right?

13 PROSPECTIVE JUROR: That's correct.

14 THE COURT: So that is what you would have to
15 do here in the same respect, you would have to determine
16 whether the People have proven beyond a reasonable doubt
17 the evidence that they presented.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: Can you do that?

20 PROSPECTIVE JUROR: I think so, yes.

21 THE COURT: Can you do it fairly and
22 impartially?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: That's the question.

25 Okay.

Voir Dire - People/Ms. Chu

1 Ms. Mamer?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Mr. Ahmed?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And Ms. Comer?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And Mr. Audige?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And Mr. Hernandez?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Go ahead, Ms. Chu.

12 MS. CHU: Thank you.

13 Good morning, ladies and gentlemen.

14 I see that at least Mr. Clark was paying
15 attention last week when we were talking up here. I
16 hope you kind of remember the things we spoke about.
17 The Judge said it perfectly, there is going to be other
18 kinds of evidence. You are going to hear, for example,
19 Ms. Mamer, you said you had an incident with an
20 ex-boyfriend. You said you didn't press charges because
21 you didn't have anybody that was there besides you and
22 the other person.

23 In this case there are other things, you just
24 won't have someone that says I saw this person do this
25 to this other person, okay.

Voir Dire - People/Ms. Chu

1 I know that, Mr. Clark, you said that you have
2 somewhat of a problem with that.

3 Let's say, for example, you're selected as a
4 juror, you heard all the evidence and the evidence that
5 I have, although there is no eyewitness, you have
6 evidence that proves that in fact the defendant is
7 guilty of what she's charged with.

8 Are you going to be, when you go back in the
9 jury room, you know, Ms. Chu proved her case and I
10 believe that she's proven beyond a reasonable doubt that
11 the defendant is guilty, but because I didn't have a
12 witness, I don't know if I can do that?

13 PROSPECTIVE JUROR: Yeah. I don't think I can
14 do that.

15 THE COURT: That would be a problem for you?

16 PROSPECTIVE JUROR: Yeah.

17 MS. CHU: Anybody here think that might be a
18 problem?

19 There is really no right or wrong answer. I
20 appreciate you being honest with me. You realize how,
21 unfortunate it would be if you were selected as jurors,
22 you think you're not going to say, now you don't say
23 anything, we will pick you, then it will be too late,
24 then you're in the jury room, you might have some
25 issues.

Voir Dire - People/Ms. Chu

1 Yes, sir?

2 PROSPECTIVE JUROR: I believe I can be
3 impartial. My problem is, as a business owner I get
4 distracted. It's almost like my employees are part of
5 the family. They work for me. A dysfunctional family,
6 but a family.

7 MS. CHU: They are not all dysfunctional.

8 PROSPECTIVE JUROR: I want to be honest and
9 tell you, even when I'm out to dinner with friends, I
10 get distracted and my mind is somewhere else, I come
11 back because someone will bring me back to the
12 conversation. But that really happens. I don't
13 intentionally let my mind wander. Physically I am here
14 and other things that could distract me that may
15 preclude me from being effective. It might be, if I
16 didn't have the economic situation that I have.

17 MS. CHU: Basically you're saying, because
18 what you do and your job, you would be distracted from
19 perhaps paying one hundred percent attention to what the
20 evidence would be?

21 PROSPECTIVE JUROR: That is one hundred
22 percent accurate.

23 MS. CHU: Thank you very much.

24 Anyone else that their work might consume
25 their thoughts, make them become distracted and not be

Voir Dire - People/Ms. Chu

1 able to listen to the evidence?

2 You raised your hand for another reason.

3 PROSPECTIVE JUROR: I was thinking of
4 something else.

5 MS. CHU: Okay.

6 PROSPECTIVE JUROR: From what you were saying
7 Thursday, I fear that it will mostly be for us to decide
8 if a witness to this or that, to this or that statement
9 or behavior or whatever, is telling the truth or not. I
10 have a serious problem with deciding if a person is
11 telling the truth, beyond my level of my personal --

12 MS. CHU: You are saying that your level of
13 being convinced is higher than what you think the law
14 might be?

15 PROSPECTIVE JUROR: I don't know what the law
16 might be but --

17 THE COURT: The law is they have to prove the
18 defendant's guilt of the charge or charges beyond a
19 reasonable doubt. That's the standard. And it's not
20 beyond all possible doubt, but beyond a reasonable
21 doubt, and I will explain to you what a reasonable doubt
22 is and then you have to determine whether the People
23 have met their burden of proof.

24 Can you do that?

25 PROSPECTIVE JUROR: I really doubt --

Voir Dire - People/Ms. Chu

1 THE COURT: Excuse me?

2 PROSPECTIVE JUROR: I really doubt that, your
3 Honor, 'cause for myself, I cannot understand what the
4 level of reasonable doubt might be. If I know that I am
5 a bad judge of persons and I have to decide if that
6 person said the truth or lied to me and it affects --

7 THE COURT: It's not only that person. You
8 take everything together, including that person, and
9 you'll have to determine, taking everything together,
10 all the evidence, whether that person is telling the
11 truth or not, or whether the People have met their
12 burden.

13 It's not, you know, rocket science. It's
14 very, very -- I can't think of the word right now, but
15 it's like we said, what you bring to this is your common
16 sense and your lifetime experience, that's all.

17 PROSPECTIVE JUROR: I'm sorry, your Honor. My
18 lifetime experience was twenty years of being a
19 scientist before I switched here to being a computer
20 programmer and I'm trained to doubt those things.

21 THE COURT: Well, but I don't want --

22 PROSPECTIVE JUROR: I really don't understand
23 how you can establish anything beyond a reasonable doubt
24 because there's always doubt.

25 THE COURT: It's not what -- I am going to say

Voir Dire - People/Ms. Chu

1 this to everybody. It's not whether he's possibly
2 guilty, that's not the standard. All right? Because if
3 it was just possible guilt, then he's not guilty, but if
4 he is guilty beyond a reasonable doubt. And you're a
5 scientist, you use reason to determine equations and
6 scientific problems, you should be, really, one of the
7 better jurors in the sense that you have -- you think
8 rationally and reasonably. That is what you are going
9 to have to do here. But if you think you are going to
10 be prejudiced in some way or not, that's the question.

11 Can you be fair and impartial, yes or no?

12 PROSPECTIVE JUROR: Certainly. I can be fair
13 and impartial. I am just saying right away that in this
14 case I already know that I will have to say not guilty.

15 THE COURT: Let me just say something, with
16 people that say that, in this case no one knows
17 absolutely anything about this case, absolutely nothing
18 because you have not heard a shred of evidence, not a
19 shred. Okay?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: So all I'm saying is, when you do
22 hear the evidence, then you will have to ultimately, at
23 the close of the case, make a determination. If you
24 can't do that because of your particular profession or
25 whatever, then you say that. Can you do that or not?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: Yes, I can.

2 THE COURT: Okay.

3 MS. CHU: Mr. Yudin, let me ask you, I know
4 you said you were twenty years a scientist before you
5 became a computer programmer for the New York Times,
6 right?

7 PROSPECTIVE JUROR: Correct.

8 MS. CHU: I am assuming that when you're doing
9 computers, there's programs and they have to be exact,
10 everything has to match perfectly, am I correct?

11 PROSPECTIVE JUROR: Yes.

12 MS. CHU: And do you understand that that
13 standard that you use in order to become a computer
14 technology person is different than the standard that
15 you have to use in this case?

16 Do you think that?

17 My question to you, only you will be able to
18 answer that, do you think that if you heard this case
19 you are going to hold to whatever standards you usually
20 use in your line of work or are you going to be able to
21 accept what the Judge tells you as far as that it's
22 beyond a reasonable doubt? Are you even able to think
23 that way?

24 PROSPECTIVE JUROR: I don't know until I try.

25 MS. CHU: You seem to have some reservations

Voir Dire - People/Ms. Chu

1 as to whether or not you will be able to do that.

2 You understand it's not -- the proof is not
3 proof to a mathematical certainty, it doesn't plug into
4 a program and everything spits out exactly what the
5 answer is.

6 PROSPECTIVE JUROR: I understand that, but it
7 doesn't mean that I for myself accept that.

8 MS. CHU: It doesn't mean you accept that?

9 THE COURT: Go on to something.

10 MS. CHU: We talked about that most of the
11 evidence was from something defendant said. Defendant
12 made certain statements to police, also made certain
13 statements to friends of hers, and I want to ask, are
14 you the kind of jurors that can analyze and determine
15 whether or not, from all the other evidence you are
16 going to hear in this case, whether or not what she said
17 at a particular time was maybe truthful, not so true?

18 You understand what I'm asking you?

19 Do you think that you are the kind of juror
20 that was able to process that type of information, to
21 make a determination as to whether or not maybe parts of
22 the statement are true, parts might be false?

23 Ms. Comer, how do you feel about that?

24 PROSPECTIVE JUROR: I'm fine.

25 MS. CHU: You fine with it?

Voir Dire - People/Ms. Chu

1 Ms. Herald?

2 PROSPECTIVE JUROR: Yes.

3 MS. CHU: Mr. Hernandez?

4 PROSPECTIVE JUROR: Yes.

5 MS. CHU: Mr. Adedeji, I wanted to ask you, I
6 know you're an attorney and I don't know the last time
7 you thought about the criminal law, probably not since
8 law school.

9 PROSPECTIVE JUROR: I been working with
10 somebody in general practice so she does both civil and
11 criminal.

12 MS. CHU: As far as you --

13 PROSPECTIVE JUROR: Personally, no, I don't
14 really do criminal.

15 MS. CHU: My question to you, because you're
16 an attorney, do you think that you have more or less
17 expertise in the law compared to the other members of
18 the jury?

19 PROSPECTIVE JUROR: Sometimes lay people know
20 better than we do.

21 MS. CHU: That is true.

22 Can you promise me -- can you all promise me
23 no matter what you think the law might be, that the
24 law -- that the only law that pertains to this case is
25 what this Judge tells you?

Voir Dire - Defendant/Mr. Walensky

1 So you might think it's a certain way before
2 you start this trial and then when the Judge tells you
3 what the law is, can you all promise me that you are
4 going to follow what he says despite what you might have
5 thought before, no matter what?

6 Can you all promise me you can do that?

7 THE COURT: Thank you. All right, thank you.
8 Defense.

9 MR. WALENSKY: Your Honor, would you tell me
10 about a minute before you are going to cut me off, just
11 so I have an idea?

12 THE COURT: Go ahead.

13 MR. WALENSKY: I don't expect to be
14 longwinded.

15 Hello.

16 Hope you all remember me from last week. I'm
17 David Walensky. I'm the attorney for the accused. And
18 if you recall, I said the person is accused because we
19 don't have to defend each other -- we don't have to
20 defend ourselves, I'm sorry.

21 Do you understand that?

22 And that everything has to be done by the
23 People?

24 Now, Mr. Clark, you had said from what you
25 heard you really don't know anything about the case,

Voir Dire - Defendant/Mr. Walensky

1 right?

2 PROSPECTIVE JUROR: Of course not.

3 MR. WALENSKY: There's a defense attorney, it
4 sounds as though I should be able to convict if I hear
5 the evidence, but that's the People's problem. You
6 understand?

7 PROSPECTIVE JUROR: Yes.

8 MR. WALENSKY: Your problem is just hearing
9 the evidence, and if the Judge says, can you follow my
10 directions, following his directions, right?

11 PROSPECTIVE JUROR: Yes.

12 MR. WALENSKY: That's fair enough, isn't it?

13 If they prove their case, so be it, beyond a
14 reasonable doubt.

15 And the Judge will give you the legal
16 definition, Mr. Yudin, of what "beyond a reasonable
17 doubt" is. That's why they talk about analyzing it
18 within that criteria. We will look and see if they have
19 proven their case. If they haven't proven their case
20 beyond a reasonable doubt, you must say not guilty.

21 You understand?

22 It's not even innocent. It's not guilty or
23 innocent, it's guilty or not guilty.

24 It's all laid in their lap and maybe they have
25 enough evidence and maybe they don't.

Voir Dire - Defendant/Mr. Walensky

1 You don't have to say I'm going to believe
2 everything they say. Understand?

3 It becomes their problem.

4 As I said, I worry about it because, you can
5 understand, Ms. Tinnel, because, heck, if they don't
6 prove their case, fine, it's not guilty. But you don't
7 have to go in saying -- you have to go in and I can find
8 guilty, not I must find a person guilty. You understand
9 that? The Judge will tell you that in this case.

10 Ms. Mamer, you had a bad experience five years
11 ago and you fought somebody off, right? That wasn't
12 about rape or anything, was it?

13 PROSPECTIVE JUROR: It was attempted.

14 I'm sorry.

15 MR. WALENSKY: But this is -- you can use your
16 personal experiences in judging things, you understand
17 that?

18 PROSPECTIVE JUROR: Yeah.

19 MR. WALENSKY: This isn't a contest that
20 brings this up again. Sometimes people say I can do
21 this, I can do this. This is a bad case, this
22 particular case.

23 PROSPECTIVE JUROR: I thought I was okay, I'm
24 sorry.

25 MR. WALENSKY: That is what I mean. This is

Voir Dire - Defendant/Mr. Walensky

1 the time to tell us. People too often feel like they're
2 failing. Another case might be perfectly fine, civil
3 case, another kind of criminal case, but it doesn't help
4 anyone if we're trying to do this.

5 Now, Mr. Edelman, intellectually I like to say
6 I can be fair. You're a fair guy?

7 PROSPECTIVE JUROR: I believe that.

8 MR. WALENSKY: But on the other side you said
9 you are going to be distracted.

10 PROSPECTIVE JUROR: For sure.

11 MR. WALENSKY: It would really -- you couldn't
12 be the kind of juror you want to be?

13 PROSPECTIVE JUROR: Correct.

14 MR. WALENSKY: You might miss things if your
15 mind starts to wander. It wanders all the time, right?
16 This is a very serious case. My client's charged with
17 murder. Is there anything more serious? So --

18 PROSPECTIVE JUROR: I am not suggesting that
19 it's not less than serious. I'm not.

20 MR. WALENSKY: You are being honest, you
21 wouldn't be able to give it the attention that you think
22 it deserves.

23 PROSPECTIVE JUROR: I can be here and I
24 respect the Court, I listened to everything everyone
25 said.

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: You can't give it one hundred
2 percent?

3 PROSPECTIVE JUROR: I don't believe that's the
4 case.

5 MR. WALENSKY: Thank you. That's fine.

6 Again, this isn't pass/fail. This is an
7 expression of our citizenship, why everybody fights for
8 everything. This is what it's about. And you hate
9 getting this notice. On the other hand, if you're here
10 and you can do it, fine. If you can't do it, you're
11 doing a disservice to everything behind that. I don't
12 mean that in a negative way.

13 You understand that?

14 Mr. Hernandez, you got arrested, it was a
15 domestic problem, an argument. Were you treated fairly?

16 PROSPECTIVE JUROR: Yes.

17 MR. WALENSKY: Were you treated fairly?

18 PROSPECTIVE JUROR: By the case?

19 MR. WALENSKY: Yes.

20 PROSPECTIVE JUROR: I guess.

21 MR. WALENSKY: It doesn't sound like you think
22 you should have been arrested.

23 PROSPECTIVE JUROR: No, sir.

24 MR. WALENSKY: But police reacted because
25 somebody said something. That is what the evidence is.

Voir Dire - Defendant/Mr. Walensky

1 Sometimes you can believe people, sometimes you don't
2 believe people. You have to weigh everything.

3 Will you be able to do that, Mr. Ahmed?

4 PROSPECTIVE JUROR: Yes.

5 MR. WALENSKY: Ms. Comer, as an LPN you've
6 probably seen a lot of facets of life.

7 Is there anyone here who believes -- does
8 someone have a problem with the concept of defending
9 themselves?

10 Now, will you all be able to --

11 Mr. Yorker, will be you be able to accept the
12 Judge's definition of how far somebody can go -- rape
13 has its own -- attempted rape has its own set of
14 standards as to how someone can defend themselves.

15 THE COURT: What?

16 I'm sorry.

17 That's not the law, all right.

18 The law of justification I will define for
19 you, all right, and please, whatever the attorneys say
20 is the law just disregard it, okay.

21 Thank you.

22 MR. WALENSKY: You will be able to listen to
23 the Judge's instructions? That's all we want.

24 So, I want to thank you for your attention.
25 If you're selected, please give it your all. You have

Voir Dire

1 no bosses here.

2 Thank you very much.

3 THE COURT: All right.

4 Ladies and gentlemen, will you step outside
5 for a moment, I'll call you back in a few minutes. Take
6 all your belongings.

7 (Whereupon, the panel of prospective jurors
8 exited the courtroom.)

9 COURT OFFICER: Judge, one of the jurors has a
10 question she needs to ask you.

11 (Whereupon, the following took place at
12 sidebar:)

13 PROSPECTIVE JUROR: Thank you.

14 I just want to make sure that there is no
15 problem because I am a nurse, I work in a women's house.

16 THE COURT: Of detention?

17 PROSPECTIVE JUROR: Yes, sir.

18 I want to make sure that's not an issue.

19 MS. CHU: Do you know the defendant?

20 PROSPECTIVE JUROR: I'm sure. I have been in
21 Rikers for twenty-one years. If she's passed through --

22 THE COURT: When you say you're sure, are you
23 sure now?

24 PROSPECTIVE JUROR: I don't have a problem
25 sitting on the case but I just wanted to share that.

Voir Dire

1 Just in case it was any type of conflict, I want you to
2 know.

3 THE COURT: That's understandable.

4 My point is, is that going to affect your
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: All right.

8 PROSPECTIVE JUROR: Thank you.

9 (Whereupon, the prospective juror exited the
10 courtroom.)

11 (Whereupon, the following took place in open
12 court:)

13 THE COURT: First three, cause?

14 MS. CHU: Yes, your Honor.

15 Juror number one.

16 THE COURT: Challenged for cause?

17 MS. CHU: You said the first three?

18 THE COURT: Just the next three.

19 MS. CHU: Okay.

20 THE COURT: That is just cause.

21 MS. CHU: Yes.

22 THE COURT: Defense, cause?

23 MR. WALENSKY: No.

24 THE COURT: Perempt?

25 MS. CHU: No.

Voir Dire

1 THE COURT: Perempt?

2 MR. WALENSKY: Number three.

3 THE COURT: Okay.

4 How many jurors do we have now?

5 MR. POVILL: That should be ten, your Honor.

6 THE CLERK: You perempted number three?

7 MR. WALENSKY: Yes, number three.

8 THE COURT: Next two, cause?

9 MS. CHU: Yes. Mr. Yudin, I believe he stated
10 that because of the nature of how he does his work,
11 being a scientist as well as computers, it would be
12 extremely difficult for him to even try and figure out
13 what "beyond a reasonable doubt" is and I think that
14 would prevent him from being a fair juror. Computers
15 and being a scientist, the way the fields are very
16 exact, I believe that he was very honest in his opinion
17 as to whether or not he'd be able to decide according to
18 what your standards would be, as far as beyond a
19 reasonable doubt.

20 THE COURT: What is your position on that?

21 MR. WALENSKY: I'll leave it up to the Court.
22 I think I will agree with that.

23 THE COURT: He's out for cause.

24 THE CLERK: Let me seat the juror.

25 Juror number ten is Tinnel Herald.

Voir Dire

1 THE COURT: I haven't finished.

2 Perempt?

3 MS. CHU: I'm sorry, what numbers are we up
4 to?

5 THE COURT: Four and five.

6 MS. CHU: I'm sorry.

7 THE COURT: You said cause for Yudin and --

8 MS. CHU: I also want to challenge Mr. Clark
9 for cause, I believe.

10 THE COURT: He's out.

11 MR. WALENSKY: Your Honor, I thought I
12 rehabilitated him.

13 THE COURT: Yeah, you did?

14 He's out for cause.

15 MS. CHU: People also challenge Ms. Mamer.

16 THE COURT: Wait a minute. Wait a minute.

17 MS. CHU: I'm sorry. I thought we were
18 looking at the next three.

19 THE COURT: The next two, Yudin and Clark.

20 MS. CHU: Okay. Sorry about that.

21 THE COURT: You challenged Yudin and Clark for
22 cause. I've granted them.

23 MS. CHU: Yes.

24 THE COURT: Next, Mamer and Hernandez. Yeah,
25 Mamer and Hernandez.

Voir Dire

1 MS. CHU: I challenge Ms. Mamer for cause.
2 MR. WALENSKY: I agree.
3 THE COURT: She's out for cause.
4 Hernandez, cause?
5 MS. CHU: No.
6 THE COURT: Cause?
7 MR. WALENSKY: No.
8 THE COURT: Perempt?
9 MS. CHU: No.
10 THE COURT: Perempt?
11 MR. WALENSKY: Yes.
12 THE CLERK: That is Hernandez.
13 MR. WALENSKY: Yes, that's Hernandez.
14 THE COURT: Adedeji?
15 MS. SCHWARTZKOPF: Eight and nine.
16 THE COURT: Eight and nine, yes.
17 MS. CHU: None for cause.
18 THE COURT: Cause?
19 MR. WALENSKY: No.
20 THE COURT: Perempt?
21 MS. CHU: People challenge juror number nine.
22 THE COURT: Comer?
23 MS. CHU: Yes.
24 THE COURT: Defense?
25 MR. WALENSKY: Number eight.

Voir Dire

1 THE COURT: All right.
2 Ahmed, cause?
3 MS. CHU: None for cause.
4 THE COURT: Cause?
5 MR. WALENSKY: No.
6 THE COURT: Perempt?
7 MS. CHU: No.
8 THE COURT: Perempt?
9 MR. WALENSKY: Yes.
10 THE CLERK: Defense used four.
11 MS. SCHWARTZKOPF: Yes.
12 And People used one.
13 THE COURT: What is the total?
14 THE CLERK: People used twelve, defense
15 eighteen.
16 THE COURT: All right.
17 Get the jurors in, please.
18 MS. CHU: How many challenges do I have left?
19 Eight?
20 MS. SCHWARTZKOPF: Eight.
21 MS. CHU: How many does the defense have?
22 MS. SCHWARTZKOPF: Two.
23 COURT OFFICER: Panel entering.
24 (Whereupon, the panel of prospective jurors
25 entered the courtroom.)

Voir Dire

1 THE CLERK: Okay, ladies and gentlemen, if you
2 hear your name called that means you have been selected
3 to serve as a juror. If you do not hear your name
4 called, you are excused, go back to the second floor,
5 Central Jury, with the thanks of the Court.

6 Juror number ten will be Tinnel Herald.

7 The rest of you go back to the second floor.

8 THE COURT: Ms. Herald, sit down. The rest
9 of you go back to the second floor, Central Jury.

10 Thank you.

11 (Whereupon, the panel of prospective jurors
12 exited the courtroom.)

13 THE COURT: Swear her in.

14 THE CLERK: Please rise, raise your right
15 hand.

16 Do you sincerely and solemnly swear or affirm
17 you will try this case in a just and impartial manner to
18 the best of your judgment and you will render a verdict
19 according to the law and the evidence?

20 Your response?

21 PROSPECTIVE JUROR: Yes.

22 THE CLERK: You may see the Court Officer.

23 (Whereupon, the sworn juror exited the
24 courtroom.)

25 THE COURT: We have ten and --

Voir Dire

1 THE CLERK: Ten sworn.

2 THE COURT: And they're bringing up the
3 supplemental panel?

4 THE CLERK: Yes.

5 (Whereupon, there was a brief pause in the
6 proceedings.)

7 THE COURT: All right, we'll take a break. We
8 will be back at a quarter after -- I mean, ten to.

9 (Whereupon, a brief recess was held.)

10 THE CLERK: Case back on trial continues. All
11 parties present. Defendant is present with her
12 attorney.

13 THE COURT: Where are we now?

14 MS. SCHWARTZKOPF: We have the supplemental
15 panel.

16 THE COURT: Bring in the supplemental panel.

17 (Whereupon, there was a brief pause in the
18 proceedings.)

19 COURT OFFICER: Jury panel entering.

20 (Whereupon, the panel of prospective jurors
21 entered the courtroom.)

22 THE CLERK: All rise, please, and raise your
23 right hand.

24 Do you and each of you sincerely and solemnly
25 swear or affirm that you will answer truthfully all

Voir Dire

1 questions asked of you relating to your qualifications
2 to serve as jurors in this action?

3 What is your response?

4 (Whereupon, the prospective jurors responded.)

5 THE CLERK: Please be seated.

6 THE COURT: All right.

7 Good afternoon, ladies and gentlemen. I am
8 Supreme Court Justice Albert Tomei and I want to welcome
9 you to Part 2 of the State Supreme Court, the County of
10 Kings, the Criminal Term.

11 I will be presiding over the case of the
12 People of the State of New York against Ms. Atara
13 Wisdom. She has been charged with the crime of murder
14 in the second degree and she's alleged to have stabbed
15 to death Mr. Anthony Wilson on -- sometime between
16 November 29th, 2011, and January 3rd of 2012 inside of
17 832 Bushwick Avenue in the Bushwick section of
18 Brooklyn.

19 I will tell you now, those charges -- that
20 charge is merely an allegation, merely an accusation,
21 it's not proof or evidence of anything. A little later
22 on I will explain to you exactly what an indictment
23 represents. However, before we proceed, what I'd like
24 to do is introduce the principal parties involved in
25 this matter.

Voir Dire

1 First of all I'd like to introduce you to
2 Atara Wisdom, the defendant in this case.

3 Please stand, turn around and introduce
4 yourself.

5 THE DEFENDANT: Hi everyone.

6 THE COURT: She is being represented by an
7 attorney, Mr. Joshua Povill.

8 MR. POVILL: Good morning.

9 THE COURT: And her principal attorney, Mr.
10 David Walensky.

11 MR. WALENSKY: Good afternoon.

12 THE COURT: And representing the People, the
13 District Attorney of Kings County, Assistant District
14 Attorney Phyllis Chu will be trying this matter.

15 MS. CHU: Good morning, ladies and gentlemen.

16 THE COURT: Do any of you ladies and gentlemen
17 know any of the parties I have introduced or anyone else
18 in the courtroom, including myself?

19 I don't see any hands so I would assume all of
20 you do not know any of the participants.

21 We are in the process of selecting a jury
22 right now. Ladies and gentlemen, we have ten jurors, we
23 need two more to complete the petit jury -- a jury of
24 twelve plus alternates is called a petit jury -- and we
25 need a couple of alternates, so we should finish the

Voir Dire

1 jury selection process hopefully if not by the end of
2 the morning session, certainly by the afternoon
3 session.

4 This jury selection process is known as the
5 voir dire. It's a French term, to see them say.

6 Basically what we are concerned about is
7 getting, not only the Court, but the attorneys, both
8 defense and the people, they want jurors who are fair
9 and impartial and will make their determination solely
10 on the evidence or lack of evidence in the case.

11 So the process that we are engaging in is a
12 process which includes questioning you about your
13 background and your ability to be fair and to determine
14 whether you have any predisposition regarding this
15 matter and whether you can sit in this matter.

16 Fair and impartial, that is the hallmark of
17 jury selection and the selection of jurors. So, please
18 do not be offended if we do ask some personal questions.
19 It's impossible to know all of you the way you know
20 yourselves, but we try to -- we try to eliminate any
21 infection, that is called prejudice, from the trial
22 process, so please indulge us while we do that.

23 The process is as follows: I will make a
24 general inquiry of all of you jurors. Do not respond
25 unless I ask for the response. At the end of my general

Voir Dire

1 inquiry I will ask if any of the questions I've posed
2 affect you and you wish to make a statement.

3 Also, as I already stated, only you know
4 yourselves, not only you, you know yourselves better
5 than anyone else. If there is something that would
6 prevent you from sitting, whatever it be or might be,
7 let the Court know because to have you selected as a
8 juror and then you come back after selection and say you
9 forgot this, you forgot that, I'm going to hear I got a
10 ticket for this, I can't do this, only makes me very
11 unhappy, and I don't like to be unhappy because it
12 really throws a wrench in the proceedings, all right.

13 And a lot of people come in here with the idea
14 I am not going to be selected. You don't know if you're
15 going to be selected or not. You may not, you may, but
16 to say later on, I forgot this just to get off jury
17 service -- not even to get off -- you gotta listen.

18 Now, this process is not an easy one to
19 participate in because it's very tedious, it's very
20 repetitious but very important.

21 So first I am going to do the general
22 inquiries.

23 Secondly, after I do that I am going to inform
24 you of certain principles of law that you must follow if
25 you're selected as a juror.

Voir Dire

1 And thirdly, there will be an individual voir
2 dire where I will ask you personally certain questions,
3 then following my individual voir dire, the individual
4 voir dire or jury selection process by the attorneys.
5 That's how it goes.

6 First of all, I'd like to know if any of you
7 ladies and gentlemen have any physical disabilities or
8 maladies that would prevent you from sitting for an
9 hour, an hour and fifteen minutes, it's not fixed in
10 stone, after an hour and ten minutes if you need a
11 break, we will take a break, if it's legitimate.

12 Any of you ladies and gentlemen taking any
13 medication or drugs that would disorient you to the
14 extent that you could not follow these proceedings, you
15 become dizzy, or disoriented?

16 And you really have to be in horrible physical
17 shape for me to excuse you, ladies and gentlemen. So,
18 you know, everybody has a little ailment here. We all
19 take drugs today for anything. You have a headache, you
20 take something, whatever. It has to be real serious.

21 I would also like to know if any of you ladies
22 and gentlemen have any difficulty understanding the
23 English language or communicating in the English
24 language. If you do, please let me know.

25 I also would like to know if any of you ladies

Voir Dire

1 and gentlemen have difficulty seeing or hearing, because
2 obviously there's going to be evidence in the case and
3 you're going to have to observe and read it, see it,
4 whatever, hear it.

5 I would also like to know if there are any
6 students attending school right now. Are there any
7 students attending school right now?

8 Give your name.

9 PROSPECTIVE JUROR: Thomas Lay (phonetic).

10 THE COURT: What do you do?

11 PROSPECTIVE JUROR: I am a part-time student,
12 part-time graduate student. I have an obligation for
13 class over the summer.

14 THE COURT: Are you taking class now?

15 PROSPECTIVE JUROR: I am not enrolled at the
16 moment but I have an incomplete class that I am working
17 on finishing.

18 THE COURT: This case -- let me just say, this
19 case should be over by next week, the latest Tuesday.
20 That's my guesstimate, all right. Okay.

21 Is that all right with you?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Sit down.

24 I would also like to know, is there anyone
25 here who doesn't understand English or has difficulty

Voir Dire

1 with the English language?

2 Just raise your hand.

3 No? Okay.

4 We are only going to meet, if you're selected,
5 we are going to meet today, tomorrow and Wednesday and
6 then we'll return on -- what is it? -- the 8th. You
7 don't have to worry about the holiday, you will be able
8 to buy firecrackers, do whatever you want, watch the
9 Macy's parade or whatever it is.

10 Anyway, what else was I going to say?

11 Oh, I would like to know if any of you ladies
12 and gentlemen have any religious, moral or ethical
13 reason why you cannot sit in judgment of Ms. Wilson.

14 I would also like to know if any of you ladies
15 and gentlemen were called to jury service, whether it be
16 in the federal court system, state court system or city
17 court system, or called to serve on the Grand Jury,
18 which is an entirely different legal entity, within this
19 period of time.

20 What's today's date?

21 THE CLERK: Today is June 30th.

22 THE COURT: Between the date of June 30th,
23 2012 and June 30th, 2014, if you were called, you didn't
24 have to sit, if you were called, they sent you a notice
25 to come in and you go in, that is all I want to know.

Voir Dire

1 What else?

2 MS. CHU: Somebody raised their hand before.

3 THE COURT: Who raised their hand?

4 Yes, ma'am?

5 PROSPECTIVE JUROR: I am a Jehovah's Witness.

6 THE COURT: That's okay. I haven't gotten to
7 that part yet.

8 So right now I am going to go down row by row,
9 and if any of the questions I've posed affect you and
10 you want to speak to the Court, just stand and make your
11 statement. Or if you have information that is known
12 only to you and it would prevent you from sitting, let
13 us know.

14 Also, like I said before, I don't suffer
15 excuses very easily or very gladly, ladies and
16 gentlemen, because if I accepted everybody's excuse, you
17 could never sit and listen to all the hundreds and
18 hundreds and hundreds of cases that go through the halls
19 of justice, so be aware of that.

20 All right.

21 So we are going row by row, and if you wish to
22 address the Court, just stand, give your name. If it's
23 something very personal that you do not wish to reveal
24 before the rest of the jurors, let me know, you will be
25 able to make your statement at the bench.

Voir Dire

1 First row, anyone?

2 Second row?

3 Third row?

4 Fourth row?

5 Fifth row?

6 No one.

7 Miss, you said you were Jehovah's Witness?

8 PROSPECTIVE JUROR: My name is Charlotte
9 Lindsay-Gibson (phonetic).

10 THE CLERK: Last name?

11 PROSPECTIVE JUROR: Gibson. Lindsay-Gibson.
12 I have two last names.

13 THE CLERK: What is the other one?

14 PROSPECTIVE JUROR: Lindsay.

15 THE COURT: You know what, Ms. Gibson, you can
16 go downstairs and go to -- can I see your card?

17 All right.

18 So I don't see any other hands so we're going
19 to proceed. I am going to proceed and inform you with
20 respect to the legal principles that apply to this
21 criminal trial and all criminal trials.

22 First of all, as I indicated, the mere fact
23 that Ms. Wisdom has been charged in the indictment with
24 this crime of murder in the second degree means -- I
25 will start all over again.

Voir Dire

1 The fact that she's been charged with these
2 crimes doesn't mean that there is any evidence that
3 she's committed these crimes or this crime.

4 The indictment really is a piece of paper that
5 reflects the charge and as a consequence that person is
6 brought into court and then the People have to prove
7 each and every material element of the crime charged
8 beyond a reasonable doubt. That burden always remains
9 on the People, never shifts to the defendant.

10 It's merely an accusation, merely an
11 allegation and not proof of anything.

12 If you're selected as a juror, you are going
13 to be determining what the facts are in this case, and
14 after determining what the facts are, you will determine
15 what the evidence shows. In other words, you'll
16 determine what the evidence is in this matter, or lack
17 of evidence, and then I will -- that will be your
18 province, you will be the judges, you are going to be
19 judges for a couple of days and you will determine what
20 the facts are in this matter. I will not be able to
21 tell you what the facts are in this matter or what the
22 evidence is, all right. But I will tell you at the
23 close of the case what the law is because that's my
24 province.

25 I am not allowed to interfere in your province

Voir Dire

1 and you are not allowed to interfere in mine. You have
2 to take the law as I give it to you.

3 So once the case is concluded, you will take
4 the evidence or the facts in the matter, determine what
5 the evidence is and then I will give you the law and
6 then you will make a determination, which is called a
7 verdict. Your verdict may be guilty or not guilty. You
8 may find defendant guilty of some charges and not guilty
9 of others.

10 During the course of the trial the attorneys
11 are going to be making motions, applications and
12 objections. I am going to be ruling on them as a matter
13 of law. None of my rulings should be taken by you as
14 any indication whether you should believe all or part of
15 what is offered in evidence or that the defendant is
16 guilty or not guilty. That is solely your function to
17 determine but you must accept the law as I give it to
18 you.

19 If the defendant and the People are to have a
20 fair trial to which they are entitled, you must follow
21 the law as I give it to you, whether you agree with it
22 or not, whether you like it or not. You will agree not
23 to substitute your interpretation of the law.

24 Can you all do that, folks?

25 Will you all agree?

Voir Dire

1 You didn't have your coffee this morning?
2 I gotta hear in a loud and clear voice, yes or
3 no.

4 (Whereupon, the prospective jurors responded.)

5 THE COURT: Thank you.

6 The reason I say that is because if I don't
7 hear from you, I don't know what you're thinking, I
8 don't know what you're feeling, all right.

9 Now, how many of you watch all these Law &
10 Order ridiculous shows?

11 Come on, everybody. C.S.I., there's four
12 million of them right now. How many states do we have,
13 fifty? We have about fifty C.S.I.

14 You got all these forensic scientists coming
15 in and blah, blah, blah, it's all blah, blah. By the
16 way, it's all entertainment, forget about them, okay.
17 Forget them.

18 Ninety-seven percent, in my opinion, of all of
19 the evidence comes in the form of what people say.
20 People get on the stand, they swear to tell the truth,
21 nothing but the truth, so help them God and they tell
22 you what they know, all right.

23 It's going to be up to you to determine
24 whether they are, one, telling the truth; two, lying;
25 three, mistaken.

Voir Dire

1 Those are the three options, all right.
2 That's basically most of the evidence.
3 So, you may say, well, what am I supposed to
4 do?

5 What you're supposed to do is take your life
6 experience, which means if you're eighteen or over you
7 have a life experience, and your common sense, which you
8 have not left outside the door, and when you go in the
9 jury room and you take that and you apply it to the
10 facts and the law in this case. That's what you do,
11 okay.

12 You don't have to be a rocket scientist to be
13 a juror. You don't have to have any level of education
14 to be a juror. There is no school for jurors, all
15 right.

16 So what I am going to do, I'm going to give
17 you the names of people that you may hear during the
18 course of the trial or who may be witnesses during the
19 course of the trial, so then you let me know if you know
20 any of them.

21 The alleged victim in this case is Mr. Anthony
22 Wilson. It's alleged he was stabbed to death by Ms.
23 Wisdom.

24 Victoria Wilson.

25 Shakeema Fortune.

Voir Dire

1 Donet Robinson.

2 Matthew Shepard.

3 Linda Smith-Harris.

4 Detective Deborah Batanjani of the 83rd
5 Precinct.

6 Police Officer Garret Marsden of the 83rd
7 Precinct.

8 Police Officer Christian Carlin of the 83rd
9 Precinct.

10 Police Officer Juana Ortiz of the 83rd
11 Precinct.

12 Detective Geoffrey Hernandez of Brooklyn North
13 Homicide Squad.

14 And Detective Christopher Scandole of the
15 Brooklyn North Homicide Squad.

16 Detective Stephen Markoski of the N.Y.P.D.
17 Crime Scene Unit.

18 Dr. Frede Frederic or Scordi-Bello, it may be,
19 from the Medical Examiner's Office of the State of New
20 York.

21 Sarah Philipps of the Office of the Chief
22 Medical Examiner's DNA lab.

23 Ed Purce, P-U-R-C-E.

24 You will hear from a Sprint Nextel phone
25 representative.

Voir Dire

1 You will hear from a 911 representative and an
2 EBT representative.

3 What is that?

4 MS. CHU: Welfare.

5 THE COURT: Welfare representative.

6 Are any of you familiar with any of these
7 people, yes or no?

8 (Whereupon, the jurors responded.)

9 THE COURT: Now, as jurors your verdict must
10 be unanimous. Twelve jurors seldom agree immediately,
11 therefore you're called upon to deliberate.

12 Can you promise the defendant and the People
13 that you will be willing to participate in the
14 deliberations, express your views based on the evidence
15 in this case, keep an open mind and listen to the views
16 of other jurors?

17 Can you all do that?

18 Thank you.

19 Now, as Ms. Wisdom sits here she's cloaked
20 with this presumption of innocence. That cloak can only
21 be removed if the jury finds her guilty beyond a
22 reasonable doubt. So, she's presumed innocent at this
23 particular time, all right, and the People have the
24 burden of rebutting the presumption, if they can, by
25 presenting evidence which convinces you beyond a

Voir Dire

1 reasonable doubt of the defendant's guilt.

2 In a criminal case the burden of proof is on
3 always on the People and remains with the People
4 throughout the course of the trial, never shifts to the
5 defendant. The defendant is not required to produce any
6 evidence, is not required to produce witnesses and is
7 not required to testify. Should she not testify, you
8 cannot hold it against her, okay.

9 Outside of this courtroom, outside of this
10 venue, the laws are different. Johnny and Joey get into
11 some dispute, you go to Johnny, you go to Joey, you ask
12 Johnny what happened, you ask Joey what happened, then
13 you make up your mind and determine what really
14 happened.

15 Ms. Wisdom doesn't have to do a single,
16 solitary thing. She doesn't have to testify. The
17 attorneys, they can go to sleep if they want with
18 respect to her defense. They are not going to do that,
19 they are going to present a defense, but that's the
20 law.

21 Does anyone have any difficulty accepting that
22 law as I have explained it?

23 Yes or no?

24 (Whereupon, the prospective jurors responded.)

25 THE COURT: I am losing some of you.

Voir Dire

1 Yes or no?

2 (Whereupon, the prospective jurors responded.)

3 THE COURT: A criminal case is different than
4 a civil case. In a criminal case all the jurors must
5 agree. In a civil case only five of six need agree. In
6 a criminal case the People will prove the case beyond a
7 reasonable doubt. In a civil case the plaintiff must
8 only prove his or her case by a fair preponderance of
9 the credible evidence.

10 Now, everybody heard the term "reasonable
11 doubt." I will not tell you what a reasonable doubt is
12 now but I will tell you, if you have a reasonable doubt
13 as to the defendant's guilt, then you must find her not
14 guilty. In other words, if you are convinced of her
15 guilt beyond a reasonable doubt, then you must find her
16 guilty of the crime or crimes charged.

17 Now, you may say, what do I do when I get into
18 the jury room?

19 What I said is, you take your common sense,
20 your lifetime experience, you go into the jury room and
21 you focus.

22 What do you focus on?

23 The evidence or lack of evidence, not any
24 sympathy for Ms. Wisdom or the People's position in the
25 matter or witnesses. You don't focus on what the

Voir Dire

1 punishment may be or what the sentence may be because
2 that's not your concern, all right. It's irrelevant.
3 Those are irrelevant matters.

4 So, if someone was to bring up these matters,
5 you would have to say, madam, sir, Judge Tomei said we
6 have to do this, and let's get back on track.

7 Can you all do that, folks?

8 Now, there are going to be a number of police
9 officers testifying in this case. I will tell you now,
10 they are to be treated like any other witness, they are
11 not to be given any greater believability or less
12 believability because they're police officers. However,
13 if you feel, because of your own personal experience,
14 the experience of someone who's close to you or because
15 of what you have heard or seen or read in the media,
16 you feel you cannot be fair and impartial when it comes
17 to evaluating police officers' testimony, let me know
18 now.

19 Is there anyone who feels that way?

20 Okay. All right.

21 So, the next step is, your name is going to be
22 called. You will take a seat in the jury box.

23 We will seat sixteen jurors, all right, and
24 you will -- after you take a seat -- well, after you're
25 called, you say "present" or "here" so we know you are

Voir Dire

1 here, you'll come, enter from my right, your left, into
2 the well of the courtroom, take a seat, then we'll
3 proceed to fill the rest of the box.

4 So, we will proceed at this particular time.
5 Go ahead.

6 THE CLERK: Seat number one will be Kingsley
7 McFarlane.

8 Say "here" or "present," please.

9 PROSPECTIVE JUROR: Present.

10 THE COURT: Spell the name.

11 THE CLERK: M-C-F-A-R-L-A-N-E.

12 PROSPECTIVE JUROR: Correct.

13 THE CLERK: Seat two, William McNair.

14 PROSPECTIVE JUROR: Present.

15 THE CLERK: M-C-N-A-I-R.

16 Seat three, Yung (phonetic) Lee, L-E-E.

17 PROSPECTIVE JUROR: Present.

18 THE CLERK: Seat four, Marlon (phonetic)
19 Laing.

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: L-A-I-N-G.

22 PROSPECTIVE JUROR: That's correct.

23 THE CLERK: That's seat four.

24 Seat five, Lorenzo Nolberto.

25 You have to say "here" or "present."

Voir Dire

1 PROSPECTIVE JUROR: Present.
2 THE CLERK: Lorenzo N-O-L-B-E-R-T-O.
3 THE COURT: N-O-L --
4 THE CLERK: N-O-L-B-E-R-T-O.
5 Seat six Marco (phonetic) Phillips.
6 PROSPECTIVE JUROR: Here.
7 THE CLERK: P-H-I-L-L-I-P-S.
8 Seat seven, Leslie Larson.
9 PROSPECTIVE JUROR: Here.
10 THE CLERK: L-A-R-S-O-N.
11 Seat eight, Jawan (phonetic) Lamont.
12 PROSPECTIVE JUROR: Present.
13 THE CLERK: L-A-M-O-N-T.
14 PROSPECTIVE JUROR: Yes.
15 THE CLERK: Seat nine, Jerlanie (phonetic)
16 Roberts.
17 PROSPECTIVE JUROR: Present.
18 THE CLERK: R-O-B-E-R-T-S.
19 Seat ten, Renee Scott.
20 PROSPECTIVE JUROR: Present.
21 THE CLERK: S-C-O-T-T.
22 THE CLERK: Seat eleven, Sarah (phonetic)
23 Harris.
24 PROSPECTIVE JUROR: Here.
25 THE CLERK: H-A-R-R-I-S.

Voir Dire

1 Seat twelve is Jerry (phonetic) Audige.

2 PROSPECTIVE JUROR: Present.

3 THE CLERK: A-U-D-I-G-E.

4 THE COURT: Just do fourteen.

5 THE CLERK: Just to fourteen?

6 THE COURT: Yes.

7 THE CLERK: Seat thirteen, Salion (phonetic)

8 Seivwright.

9 PROSPECTIVE JUROR: Seivwright.

10 THE CLERK: S-E-I-V-W-R-I-G-H-T.

11 And seat fourteen, Denise (phonetic) Chung.

12 PROSPECTIVE JUROR: Present.

13 THE CLERK: C-H-U-N-G.

14 THE COURT: All right.

15 Mr. McFarlane, your neighborhood?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: What is your neighborhood? Where
18 do you live?

19 PROSPECTIVE JUROR: Oh, East New York.

20 THE COURT: Thank you.

21 Mr. McNair?

22 PROSPECTIVE JUROR: Bed-Stuy.

23 THE COURT: Mr. Lee?

24 PROSPECTIVE JUROR: Bay Ridge.

25 THE COURT: Ms. Laing?

Voir Dire

1 PROSPECTIVE JUROR: Canarsie.
2 THE COURT: Mr. Nolberto?
3 PROSPECTIVE JUROR: Crown Heights.
4 THE COURT: Where?
5 PROSPECTIVE JUROR: Crown Heights.
6 THE COURT: Crown Heights.
7 Mr. Phillips?
8 PROSPECTIVE JUROR: Bed-Stuy.
9 THE COURT: Bed-Stuy.
10 Ms. Chung?
11 PROSPECTIVE JUROR: East Flatbush.
12 THE COURT: East Flatbush.
13 Ms. Seivwright?
14 PROSPECTIVE JUROR: Brooklyn.
15 THE COURT: What part of Brooklyn?
16 PROSPECTIVE JUROR: Church Avenue.
17 THE COURT: And where?
18 PROSPECTIVE JUROR: Linden.
19 THE COURT: Do you live in East Flatbush?
20 PROSPECTIVE JUROR: East Flatbush.
21 THE COURT: Okay.
22 How do you say it, Audige?
23 PROSPECTIVE JUROR: Audige.
24 THE COURT: Mr. Audige?
25 PROSPECTIVE JUROR: Brownsville.

Voir Dire

1 THE COURT: Ms. Harris?

2 PROSPECTIVE JUROR: Bed-Stuy.

3 THE COURT: Bed-Stuy.

4 Ms. Scott?

5 PROSPECTIVE JUROR: East New York.

6 THE COURT: Ms. Roberts -- Mr. Roberts, I'm

7 sorry?

8 PROSPECTIVE JUROR: East Flatbush.

9 THE COURT: East Flatbush, okay.

10 Mr. Lamont?

11 PROSPECTIVE JUROR: Canarsie.

12 THE COURT: Canarsie.

13 And Ms. Larson?

14 PROSPECTIVE JUROR: Ditmas Park.

15 THE COURT: Ditmas, all right.

16 First row, any of you ladies and gentlemen
17 familiar with the crime scene area, 832 Bushwick Avenue?
18 Anyone?

19 Second row, anyone?

20 Mr. McFarlane, married, single, separated,
21 divorced?

22 PROSPECTIVE JUROR: Married.

23 THE COURT: Your occupation?

24 PROSPECTIVE JUROR: Nursing assistant.

25 THE COURT: A what?

Voir Dire

1 PROSPECTIVE JUROR: A nursing assistant.

2 THE COURT: Nursing assistant, I'm sorry.

3 And your spouse, your wife?

4 PROSPECTIVE JUROR: Social worker.

5 THE COURT: City or private?

6 PROSPECTIVE JUROR: City.

7 THE COURT: Okay.

8 Mr. McNair?

9 PROSPECTIVE JUROR: Single.

10 THE COURT: Occupation?

11 PROSPECTIVE JUROR: Executive assistant.

12 THE COURT: Who do you work for?

13 PROSPECTIVE JUROR: Ann Taylor Corporation.

14 THE COURT: Ann Taylor?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Mr. Lee?

17 PROSPECTIVE JUROR: Single.

18 THE COURT: Occupation?

19 PROSPECTIVE JUROR: System admin. Tech,

20 technician.

21 THE COURT: IT.

22 Ms. Laing?

23 PROSPECTIVE JUROR: Care manager, community

24 based.

25 THE COURT: I'm sorry.

Voir Dire

1 Married, single?

2 PROSPECTIVE JUROR: Married.

3 THE COURT: You're married?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Your occupation?

6 PROSPECTIVE JUROR: Care manager,
7 community-based organization in Brownsville.

8 THE COURT: You're a care manager, that is for
9 a not-for-profit organization?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: And your spouse?

12 PROSPECTIVE JUROR: Retired.

13 THE COURT: What did he do before he retired?

14 PROSPECTIVE JUROR: Well, he was a factory
15 supervisor.

16 THE COURT: I'm sorry?

17 PROSPECTIVE JUROR: Factory supervisor.

18 THE COURT: Oh, factory supervisor.

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Thank you.

21 Mr. Nolberto?

22 PROSPECTIVE JUROR: Single.

23 THE COURT: Your occupation?

24 PROSPECTIVE JUROR: Unemployed.

25 THE COURT: What did you do before you were

Voir Dire

1 unemployed?

2 PROSPECTIVE JUROR: I used to work at a
3 restaurant.

4 THE COURT: Doing what?

5 PROSPECTIVE JUROR: Like dishwashing.

6 THE COURT: Okay. Thank you.

7 Mr. Phillips?

8 PROSPECTIVE JUROR: Single.

9 THE COURT: Occupation?

10 PROSPECTIVE JUROR: IT technician.

11 THE COURT: Ms. Chung?

12 PROSPECTIVE JUROR: Single.

13 Senior staff assistant.

14 THE COURT: For what? For whom?

15 PROSPECTIVE JUROR: A hospital. Hospital.

16 THE COURT: Which hospital?

17 PROSPECTIVE JUROR: Downstate Medical Center.

18 THE COURT: Thank you.

19 Ms. Seivwright?

20 PROSPECTIVE JUROR: Married.

21 THE COURT: Occupation?

22 PROSPECTIVE JUROR: Chef.

23 THE COURT: Chef?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And your spouse?

Voir Dire

1 PROSPECTIVE JUROR: Taxi driver.
2 THE COURT: Taxi driver.
3 You must eat good.
4 PROSPECTIVE JUROR: My throat is bad.
5 THE COURT: Mr. Audige?
6 PROSPECTIVE JUROR: Single.
7 THE COURT: Occupation?
8 PROSPECTIVE JUROR: Track worker.
9 THE COURT: You work for MTA?
10 PROSPECTIVE JUROR: Correct.
11 THE COURT: Ms. Harris?
12 PROSPECTIVE JUROR: Single.
13 THE COURT: Occupation?
14 PROSPECTIVE JUROR: Licensed social worker.
15 THE COURT: Work for the City of New York?
16 PROSPECTIVE JUROR: I work for a program that
17 is funded by organizations and partially nonprofit
18 funded.
19 THE COURT: Okay.
20 Ms. Scott?
21 PROSPECTIVE JUROR: Single.
22 THE COURT: Occupation?
23 PROSPECTIVE JUROR: I'm a student.
24 THE COURT: What are you studying?
25 PROSPECTIVE JUROR: Social work.

Voir Dire

1 THE COURT: Okay.

2 Ms. Roberts -- Mr. Roberts, I'm sorry.

3 PROSPECTIVE JUROR: Single.

4 THE COURT: Single?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And your occupation?

7 PROSPECTIVE JUROR: I'm a teaching artist of
8 music.

9 THE COURT: Are you doing that now?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: What instrument do you teach?
12 What do you teach?

13 PROSPECTIVE JUROR: I teach how to play steel
14 band and drums.

15 THE COURT: Okay.

16 Do you teach at a specific site?

17 PROSPECTIVE JUROR: Well, it depends on the
18 school that employs me.

19 THE COURT: Okay.

20 It's like you're an independent contractor, is
21 that what you do? Are you certified by the Board of
22 Education or what?

23 PROSPECTIVE JUROR: I have -- not by the Board
24 of Ed. I work underneath the Department of Health,
25 actually. I work with a company that is -- I don't

Voir Dire

1 know -- in tandem with the Department of Health.

2 THE COURT: You go to different schools?

3 PROSPECTIVE JUROR: Yeah.

4 THE COURT: Mr. Lamont?

5 PROSPECTIVE JUROR: Single.

6 THE COURT: And occupation?

7 PROSPECTIVE JUROR: I'm a student.

8 THE COURT: What are you studying?

9 PROSPECTIVE JUROR: Biology.

10 THE COURT: Ms. Larson?

11 PROSPECTIVE JUROR: Married.

12 THE COURT: Occupation?

13 PROSPECTIVE JUROR: Flight attendant.

14 THE COURT: What?

15 PROSPECTIVE JUROR: Flight attendant.

16 THE COURT: Flight attendant.

17 And your spouse?

18 PROSPECTIVE JUROR: Insurance agent.

19 THE COURT: All right.

20 Any of you in the first row, any of you ladies
21 and gentlemen ever served on a jury before?

22 Second row, anyone?

23 All right.

24 First row, any of you ladies and gentlemen
25 ever been the victim of a crime, or someone close to

Voir Dire

1 you? Could have been a very serious crime, murder,
2 rape, whatever it might be, or even a simple chain
3 snatch?

4 Ever been the victim of a crime, anyone, or
5 someone close to you?

6 That is Mr. Phillips?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: What is it?

9 PROSPECTIVE JUROR: I was hit by a car.

10 THE COURT: It was a hit and run?

11 PROSPECTIVE JUROR: It was kind of like -- not
12 hit and run.

13 THE COURT: Was there an arrest made?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And why --

16 PROSPECTIVE JUROR: I was crossing. I was
17 crossing.

18 THE COURT: Why did they arrest the person who
19 hit you?

20 PROSPECTIVE JUROR: Because he hit me and he
21 ran. Basically, he was driving on the opposite side of
22 the street so --

23 THE COURT: Reckless driving?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay.

Voir Dire

1 Who else?

2 First row, anyone?

3 Mr. McNair?

4 PROSPECTIVE JUROR: Mugging in Harlem.

5 THE COURT: You were robbed in Harlem?

6 PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: Was there a weapon involved?

8 PROSPECTIVE JUROR: A knife.

9 THE COURT: How long ago?

10 PROSPECTIVE JUROR: Five years ago.

11 THE COURT: Did you report it to the police?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Was the perpetrator or
14 perpetrators ever apprehended?

15 PROSPECTIVE JUROR: Nope.

16 THE COURT: Anyone else, first row?

17 Second row?

18 Ms. Seivwright?

19 PROSPECTIVE JUROR: My cousin.

20 THE COURT: What about your cousin?

21 PROSPECTIVE JUROR: Somebody killed her in the
22 house.

23 THE COURT: He was murdered?

24 PROSPECTIVE JUROR: She.

25 THE COURT: She was murdered?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: It was a friend?

3 PROSPECTIVE JUROR: My cousin.

4 THE COURT: Cousin?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Sorry, I didn't hear that.

7 How long ago was that?

8 PROSPECTIVE JUROR: Six years now.

9 THE COURT: And they ever apprehend the person
10 or persons?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Was a weapon involved?

13 PROSPECTIVE JUROR: Stabbed, knife.

14 THE COURT: Stabbed?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Who else?

17 Ms. Harris?

18 PROSPECTIVE JUROR: Robbed.

19 THE COURT: Was a weapon involved?

20 PROSPECTIVE JUROR: No.

21 THE COURT: What happened?

22 PROSPECTIVE JUROR: My phone was snatched out
23 of my hand while I was on it.

24 THE COURT: Your cellphone?

25 PROSPECTIVE JUROR: Uh-huh.

Voir Dire

1 THE COURT: Okay. Okay.

2 Who else?

3 Mr. Lamont?

4 PROSPECTIVE JUROR: Close friend was killed as
5 a result of fraternity hazing.

6 THE COURT: How did she die?

7 PROSPECTIVE JUROR: It was a he. It was
8 liquor hazing. They tied him to a chair and asked him
9 questions and every question he got wrong, he took a
10 shot, and he passed out.

11 THE COURT: Okay.

12 It was a fraternity?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay.

15 Anyone else?

16 First row, any of you ladies and gentlemen
17 ever accused of or arrested or convicted of a crime or
18 someone close to you?

19 Anyone ever accused or convicted of a crime or
20 arrested, or someone close to you?

21 PROSPECTIVE JUROR: Someone close to me.

22 THE COURT: Mr. McNair?

23 PROSPECTIVE JUROR: Friend of mine by the name
24 of Antonio --

25 THE COURT: What happened?

Voir Dire

1 PROSPECTIVE JUROR: He was convicted for drug
2 sales.

3 THE COURT: Of what?

4 PROSPECTIVE JUROR: Drug sales.

5 THE COURT: Okay.

6 Federal, state court?

7 PROSPECTIVE JUROR: It was in St. Louis. I
8 believe it was federal.

9 THE COURT: Anyone else, first row?

10 Second row?

11 Mr. Lamont?

12 PROSPECTIVE JUROR: Cousin, for assault.

13 THE COURT: Cousin was convicted of assault?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Did he go to jail?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: How long -- is he still in jail or
18 out of jail?

19 PROSPECTIVE JUROR: I think maybe four years.

20 THE COURT: What kind of weapon, or was there
21 a weapon?

22 PROSPECTIVE JUROR: I think it was with his
23 hands.

24 THE COURT: Anyone else?

25 Mr. Audige?

Voir Dire

1 PROSPECTIVE JUROR: Yes. Me, myself, as a
2 minor.

3 THE COURT: What were you arrested for?

4 PROSPECTIVE JUROR: Robbery.

5 THE COURT: How old were you at the time?

6 PROSPECTIVE JUROR: Seventeen.

7 THE COURT: What happened to the case?

8 PROSPECTIVE JUROR: It got sealed.

9 THE COURT: You got a YO, youthful offender?

10 PROSPECTIVE JUROR: I'm not sure what it was.
11 I know they sealed it. When I got out of the military,
12 I had to come here and the case was reopened and
13 sealed.

14 THE COURT: So you got arrested at seventeen
15 for robbery?

16 PROSPECTIVE JUROR: Correct.

17 THE COURT: Was there a trial or did you plead
18 guilty?

19 PROSPECTIVE JUROR: I took a plea bargain.

20 THE COURT: What?

21 PROSPECTIVE JUROR: I took a plea bargain.

22 THE COURT: You took a plea.

23 Was it a misdemeanor that you took?

24 PROSPECTIVE JUROR: No, it was a felony.

25 THE COURT: So did they give you youthful

Voir Dire

1 offender, which means you would be treated as a minor,
2 not as an adult?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: You got a YO? That is what that
5 is, youthful offender.

6 That's sealed?

7 PROSPECTIVE JUROR: Correct.

8 THE COURT: Anyone else?

9 All right.

10 First row, any of you, ladies and gentlemen,
11 related to, friendly or interact with any law
12 enforcement agents or attorneys?

13 Ms. Chung?

14 PROSPECTIVE JUROR: My nephew's a lieutenant.

15 THE COURT: Where?

16 PROSPECTIVE JUROR: 73rd Precinct.

17 THE COURT: 70...

18 PROSPECTIVE JUROR: 73rd Precinct.

19 THE COURT: He's a lieutenant, right?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Anybody else?

22 Mr. McNair?

23 PROSPECTIVE JUROR: My sister practices family
24 law in California. She's an attorney.

25 THE COURT: Okay.

Voir Dire

1 Who else?

2 Mr. Lee?

3 PROSPECTIVE JUROR: Brother-in-law's brother
4 is a retired lieutenant.

5 THE COURT: Your brother-in-law is a retired
6 lieutenant?

7 PROSPECTIVE JUROR: Brother-in-law's brother.

8 THE COURT: Brother-in-law's brother?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Is a retired lieutenant N.Y.P.D.,
11 okay.

12 Who else?

13 Anyone else, first row?

14 Second row?

15 Ms. Harris?

16 PROSPECTIVE JUROR: My uncle's a retired
17 police officer in Massachusetts.

18 THE COURT: Anyone else?

19 Mr. McFarlane, can you be fair and impartial
20 in this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Mr. McNair?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Lee?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire

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THE COURT: Ms. Laing?

PROSPECTIVE JUROR: Yes.

THE COURT: Mr. Nolberto?

PROSPECTIVE JUROR: Yeah.

THE COURT: Mr. Phillips?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Chung?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Seivwright?

PROSPECTIVE JUROR: Yes.

THE COURT: Mr. Audige?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Harris?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Scott?

PROSPECTIVE JUROR: Yes.

THE COURT: Ms. Roberts -- Mr. Roberts?

PROSPECTIVE JUROR: Yes.

THE COURT: And Mr. Lamont?

PROSPECTIVE JUROR: Yes.

THE COURT: And Ms. Larson?

PROSPECTIVE JUROR: Yes.

THE COURT: All right, it's almost the luncheon hour so we are going to take a break for the lunch hour. Please do not discuss the case amongst

Voir Dire

1 yourselves or with anyone else. Please do not visit the
2 place where the alleged crimes occurred.

3 Have no contact with any of the parties
4 involved in this matter. If you see us, ignore us.

5 Do not resort to utilizing any digital
6 electronic devices for the purpose of obtaining any
7 information about this case or talking to anybody about
8 this case.

9 Return here at two o'clock.

10 Do not enter until the Court Officers direct
11 you to so enter.

12 Take all your belongings. You will exit
13 first, then those in the audience will follow.

14 Have a very good lunch. You are being excused
15 for lunch.

16 (Whereupon, the panel of prospective jurors
17 exited the courtroom.)

18 THE COURT: All right, those in the audience,
19 same instructions and return at two o'clock outside.

20 Do not enter unless Court Officers direct you
21 to enter.

22 Take all your belongings.

23 Thank you.

24 COURT OFFICER: Judge, what would you like me
25 to tell the jurors in the room?

Voir Dire

1 THE COURT: They're excused till 2:15.

2 Okay, two o'clock.

3 (Whereupon, a lunch recess was held.)

4 * * *

5 A F T E R N O O N S E S S I O N

6 * * *

7 THE CLERK: Case on trial continues. All
8 parties present. Defendant is present with her
9 attorney. We are missing Walensky.

10 (Whereupon, there was a brief pause in the
11 proceedings.)

12 THE COURT: Here he comes. Just get those who
13 are in the jury box first and then the rest.

14 COURT OFFICER: Jury panel entering.

15 (Whereupon, the panel of prospective jurors
16 entered the courtroom.)

17 THE COURT: Take your seats in the jury box,
18 please.

19 THE CLERK: Was anybody else seated in the
20 jury box that are seated in the audience?

21 THE COURT: Who's that, Phillips? Is it Ms.
22 Phillips?

23 See if she's outside.

24 MS. CHU: Marco Phillips.

25 THE COURT: A male, right, Mr. Phillips.

Voir Dire - People/Ms. Chu

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 THE COURT: There he is.

4 We'll proceed at this time.

5 Go ahead, Ms. Chu.

6 MS. CHU: Thank you.

7 Good afternoon, ladies and gentlemen.

8 Oh, oh, you guys had a big lunch, huh?

9 Good afternoon, ladies and gentlemen.

10 My name is Phyllis Chu and I am the attorney
11 who will be prosecuting this case should you be selected
12 as jurors.

13 Now, one of the things that the Judge said is
14 that ninety-three percent of the cases that he's ever
15 tried, most of it has evidence that comes in the form of
16 testimony. Now, you know what that means, right?

17 What does that mean, sir, testimony?

18 Can you accept that that's a form of evidence?

19 PROSPECTIVE JUROR: Yes.

20 MS. CHU: Anybody here?

21 Ms. Chung, how do you feel about that?

22 PROSPECTIVE JUROR: Yes.

23 MS. CHU: You okay with that?

24 PROSPECTIVE JUROR: Yes.

25 MS. CHU: What he said about C.S.I. and Law &

Voir Dire - People/Ms. Chu

1 Order, and they never show this jury selection part on
2 those things and they have little commercials and it's
3 tied up with a bow in an hour. If you want, you can
4 watch a marathon for the whole day, right. This is not
5 going to be it, okay.

6 You understand that the people that are going
7 to come before you to talk are not actors, they are not
8 paid, they don't have scripts?

9 Can you all understand that?

10 Now, how many, when you were selected, to just
11 call your name to come up here, felt nervous?

12 No one was nervous?

13 Come on, you gotta be nervous.

14 Well, do you think that everybody shows how
15 nervous they are in the same way?

16 Why not?

17 PROSPECTIVE JUROR: Different individuals,
18 different people.

19 MS. CHU: Some people might cry when they are
20 nervous, some people laugh when they are nervous.

21 Can you all accept and keep an open mind
22 when you're listening to whoever testifies to see
23 whether or not what they say makes sense first, before
24 you make a determination as to whether or not they're
25 telling the truth or not telling the truth? Can you

Voir Dire - People/Ms. Chu

1 all do that?

2 Now, if you're selected as a juror in this
3 case, I can tell you that this case involved just two
4 people, Mr. Wilson and the defendant, there were no
5 other eyewitnesses or anybody else present at the time
6 that the murder occurred and I wanted to let you know
7 that the majority of the evidence you are going to hear,
8 that goes -- that proves my case is going to actually
9 come from what the defendant said to different people,
10 all right.

11 Now, can any of you think of some things that
12 would affect -- let me ask you this.

13 The first thing I want to say is, how many of
14 you have ever had any interaction at all with police in
15 the city here?

16 Pretty much everybody, right?

17 And I would imagine that the range of your
18 experiences would go from either very bad to very good,
19 right?

20 Would you all say that you kind of fell within
21 that parameter?

22 PROSPECTIVE JUROR: Yes.

23 MS. CHU: Now, do you think that if someone is
24 speaking to the police about something that they're
25 suspected of doing, or just speaking to the police in

Voir Dire - People/Ms. Chu

1 general, that they might want to talk to the police? Do
2 you think that's a possibility? Yes?

3 PROSPECTIVE JUROR: Yes.

4 MS. CHU: You said yes or no?

5 PROSPECTIVE JUROR: Yes and no.

6 They might tailor what they say for gains.

7 MS. CHU: You think when talking to the police
8 they would put things in a light that's most favorable
9 to them?

10 PROSPECTIVE JUROR: Yes.

11 MS. CHU: That's possible?

12 PROSPECTIVE JUROR: Yes.

13 MS. CHU: Did you think there's a possibility
14 there might be some half truths, some whole truths and
15 mix it up? Do you think that's a possibility?

16 PROSPECTIVE JUROR: That is a possibility.

17 MS. CHU: Mr. Nolberto, too much lunch?

18 PROSPECTIVE JUROR: I'm okay.

19 MS. CHU: Now, what I want to ask you, do you
20 think that the relationship that the person has to who
21 they're talking to makes a difference in determining
22 whether or not they're telling the truth?

23 Why do you think that?

24 PROSPECTIVE JUROR: I am more likely to tell
25 the truth to someone that I know really close than

Voir Dire - People/Ms. Chu

1 someone --

2 MS. CHU: Than like law enforcement?

3 PROSPECTIVE JUROR: Yeah.

4 MS. CHU: Are you the kind of people, do you
5 think you guys are -- let me back up.

6 You ever -- whether or not you're telling the
7 truth, right, from the moment you get up to the moment
8 you to go sleep, you're interacting with different
9 people, right?

10 Remember, the Judge says you take your life
11 experiences, you bring them with you.

12 PROSPECTIVE JUROR: Yes.

13 MS. CHU: Now, how many of you think that you
14 are able to, if you were given or selected as a juror in
15 this case, take a statement that was given by the
16 defendant and compare it and contrast it to other
17 evidence that you are going to hear in this case to make
18 your own determination as to what parts she said that
19 might be true, what parts that might be false?

20 So, you're going to have to do a little work
21 if you're selected as jurors.

22 Does everyone think they are up for that
23 challenge?

24 Yes?

25 Yes?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: Yes.

2 MS. CHU: Ms. Chung, you okay with that?

3 PROSPECTIVE JUROR: It's difficult because I'm
4 not sure. I don't know how to put yourself to have
5 control of another person's thing. That's difficult for
6 me. So, it's -- I'm not sure.

7 MS. CHU: You're not sure if you can be a
8 juror in this case, is that what you're saying?

9 PROSPECTIVE JUROR: To keep going with the
10 evidence, to put your life experiences, because you're
11 not -- your life experience is not the same as the
12 defendant so what --

13 MS. CHU: What I meant by life experiences is
14 that if someone tells you something, someone gets on the
15 stand and says I heard the defendant say this, and what
16 they say matches with other evidence that you are going
17 to hear in this case, can you say, you know what, that
18 was supported by other evidence so I know that part was
19 true?

20 PROSPECTIVE JUROR: If it's supported by other
21 evidence, then you have to take it at face value.

22 MS. CHU: You have to take it at face value?

23 PROSPECTIVE JUROR: Uh-huh.

24 MS. CHU: Do you think kind of every person
25 can do that, like kind of resolve what someone's saying,

Voir Dire - People/Ms. Chu

1 what might be true and what parts might be false?

2 PROSPECTIVE JUROR: It -- I guess, yes.

3 MS. CHU: How about you, Ms. Seivwright, how
4 do you feel about that?

5 PROSPECTIVE JUROR: It all depends.

6 MS. CHU: All depends on what they say, if it
7 makes sense with all the other evidence, then you can
8 accept it, right?

9 Would you be able to do that?

10 PROSPECTIVE JUROR: Depends what the person
11 says, if it's true or not.

12 MS. CHU: I don't understand what you mean.

13 PROSPECTIVE JUROR: Depends on what the
14 witness says.

15 MS. CHU: If the witness tells you something
16 and what you hear from another witness supports what
17 that person says that the defendant said, would you be
18 able to say, okay, I know that part's true, or you have
19 to pick apart what they say to see what is true or not
20 true? Can you do that?

21 PROSPECTIVE JUROR: Maybe.

22 MS. CHU: Maybe.

23 Are you the kind of person that says I'm not
24 so good at that?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire - People/Ms. Chu

1 MS. CHU: You're more like that?

2 PROSPECTIVE JUROR: Yes.

3 MS. CHU: Obviously there's no jury school,
4 you guys don't go away for six weeks and learn to be
5 perfect jurors. You guys use the same things that you
6 use every day, that is what you need to use when you're
7 here. There is no special ingredient. Who could be
8 better a juror than another juror?

9 All you have to do is just keep an open mind.

10 Can you all promise me you can do that and not
11 make a decision before the person testifies, about
12 whether or not you believe them or not, just wait and
13 hear what they say, see if it makes sense and kind of
14 see the other evidence you are going to hear? Can you
15 do that?

16 Now, the Judge told you that your job is to
17 be the determiners of the facts, meaning you have to
18 figure out what happened. He's in charge of the law,
19 right.

20 Now, if the Judge tells you that the burden is
21 always on me, are you going to promise me that you are
22 going to hold me to my burden of proving what I have to
23 prove beyond a reasonable doubt?

24 Can you all promise me that?

25 Now, on the flip side of that, there's certain

Voir Dire - People/Ms. Chu

1 things I don't have to prove, like I don't have to prove
2 what the weather was like for that period of time, I
3 don't have to tell you who won the lottery.

4 Are you all going to promise me that in
5 addition to holding me to my proving what I have to
6 prove, you will also not hold me to a burden of proving
7 something that I don't have to prove?

8 Do you understand what I'm asking you?

9 Is everybody okay with doing the same thing?

10 The last thing I want to talk about has to do
11 with sympathy. We can't -- I'm sorry.

12 If you all would just look at the defendant.
13 She's a young woman. Is there anyone here that thinks
14 that you wouldn't be able set aside how she appears in
15 your deliberations, in deciding what happened in this
16 case?

17 Everybody okay with, you know -- I mean,
18 somebody might say, you know what, she reminds me of my
19 sister, she reminds me of my daughter, whatever, that is
20 going to affect my ability to listen to the evidence in
21 this case?

22 Yes, Ms. Seivwright?

23 PROSPECTIVE JUROR: Yes.

24 MS. CHU: Would you have a problem with that?
25 You would not be able to separate that?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: No.

2 MS. CHU: How about you, Ms. Chung?

3 PROSPECTIVE JUROR: No, it's -- yes.

4 MS. CHU: Yes, you would be able to
5 separate that?

6 PROSPECTIVE JUROR: Uh-huh.

7 MS. CHU: How about you, Ms. Scott?

8 PROSPECTIVE JUROR: I will be able to.

9 MS. CHU: Ms. Seivwright, thank you for being
10 so honest.

11 When we get to really talking, do you feel as
12 though you might be like Ms. Seivwright, you know, what
13 I don't know, if I can separate that?

14 Everybody else is okay?

15 THE COURT: Thank you.

16 MS. CHU: Thank you.

17 THE COURT: Go ahead.

18 MR. WALENSKY: Anybody here think I have to
19 prove anything, that I have to prove that my client is
20 innocent?

21 Now, you understand, Mr. McFarlane, that this
22 isn't about guilt or innocence?

23 PROSPECTIVE JUROR: Yes.

24 MR. WALENSKY: Really, it's just about what
25 Ms. Chu had said, that she has the burden of proof, it's

Voir Dire - Defendant/Mr. Walensky

1 really only about her ability to prove her case beyond a
2 reasonable doubt.

3 Do you have any problems with that, Ms. Laing?

4 PROSPECTIVE JUROR: No, sir.

5 MR. WALENSKY: Because if the People are
6 presenting their evidence, the Judge will tell you what
7 beyond a reasonable doubt is, what the criteria is. If
8 they haven't proven the case, you would have to say not
9 guilty, wouldn't you, Ms. Harris?

10 PROSPECTIVE JUROR: Yes.

11 MR. WALENSKY: And Ms. Chu touched upon
12 police. We all react differently. Has anyone been
13 stopped and frisked?

14 Okay, Mr. Phillips. You felt pretty helpless,
15 right?

16 PROSPECTIVE JUROR: Pretty much.

17 MR. WALENSKY: The police are holding all the
18 cards, so to peak?

19 PROSPECTIVE JUROR: Pretty much.

20 MR. WALENSKY: Did you feel nervous, like you
21 had to talk to them?

22 PROSPECTIVE JUROR: Not really. I mean, I
23 know like the procedures. So I got stopped a few times,
24 I know the procedures.

25 MR. WALENSKY: But you don't have to talk to

Voir Dire - Defendant/Mr. Walensky

1 them if they ask you questions?

2 PROSPECTIVE JUROR: Sometimes. It depends.

3 MR. WALENSKY: Now, but they were essentially
4 controlling that entire situation, right?

5 PROSPECTIVE JUROR: Uh-huh.

6 MR. WALENSKY: You are not going to resist
7 because it would be foolish?

8 PROSPECTIVE JUROR: Exactly.

9 MR. WALENSKY: Now, people have -- we talk
10 about witnesses and being able to speak and listen and
11 evaluate a witness.

12 Now, Ms. Larson -- well, withdrawn.

13 Everybody --

14 Anybody here know somebody who abuses drugs or
15 alcohol?

16 Okay, Ms. Harris. Now, that person might be
17 abusing -- I'm not asking who or anything -- that person
18 who abuses drugs or alcohol, they are not always lucid,
19 would you agree?

20 PROSPECTIVE JUROR: Correct.

21 MR. WALENSKY: And the longer that somebody
22 abuses a substance, the less lucid they are about
23 everyday events?

24 MS. CHU: Objection.

25 THE COURT: Objection sustained.

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: In your experience.

2 MS. CHU: Objection.

3 THE COURT: Sustained.

4 MR. WALENSKY: All right.

5 THE COURT: Sustained.

6 MR. WALENSKY: Okay.

7 Now, there are -- you understand that in terms
8 of burden of proof, if I had to prove anything it would
9 change that burden. Do you understand that concept, Mr.
10 Lamont?

11 PROSPECTIVE JUROR: Yes.

12 MR. WALENSKY: And the reason is you know we
13 are --

14 Where were you, Ms. Seivwright, three weeks
15 ago at 3:00 in the morning? Don't know, right?

16 PROSPECTIVE JUROR: Don't remember.

17 MR. WALENSKY: Do you live alone?

18 PROSPECTIVE JUROR: Yeah.

19 MR. WALENSKY: So someone says, well, where
20 were you, you'd say I was home, I was a asleep. Well,
21 prove it.

22 How can I prove it?

23 You understand? Somebody is saying you're
24 guilty of something, that would change the burden. You
25 see?

Voir Dire - Defendant/Mr. Walensky

1 THE COURT: Let's get away from this. Don't
2 go off on the burden. Go on to something else, all
3 right.

4 MR. WALENSKY: Anyone who has a problem
5 sitting on a case because of the subject matter?

6 PROSPECTIVE JUROR: I probably would.

7 MR. WALENSKY: You would, okay.

8 Because of the nature?

9 PROSPECTIVE JUROR: This makes me really
10 uncomfortable.

11 THE COURT: It makes you uncomfortable, but
12 can you sit if you're chosen and be fair and impartial?

13 PROSPECTIVE JUROR: Yes, I can.

14 THE COURT: A lot of things make people
15 uncomfortable. That's life.

16 You understand that?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: Proceed.

19 MR. WALENSKY: Essentially, Mr. Lee, if you're
20 chosen will you be able to look at the evidence and if
21 called for give a verdict of guilty?

22 PROSPECTIVE JUROR: Yes.

23 MR. WALENSKY: If called for, to give a
24 verdict of not guilty? Do you understand?

25 It's not a matter of a feeling.

Voir Dire - Defendant/Mr. Walensky

1 Ms. Scott, you might say, gee, I think that
2 the person is guilty but they haven't proven their case
3 beyond a reasonable doubt, you'd have to say not
4 guilty.

5 PROSPECTIVE JUROR: Yes.

6 MR. WALENSKY: They might not have proven the
7 case, I have all kinds of questions, if they haven't
8 proven their case beyond a reasonable doubt, you would
9 have to say not guilty, wouldn't you?

10 PROSPECTIVE JUROR: No.

11 MR. WALENSKY: I am going to --

12 There are no bosses here. I ask you to take
13 the time, if you're selected, that would be necessary.
14 Is there anyone here who has a pressing schedule?

15 We all have things we have to do. What I am
16 concerned about in the jury room, it's I can't sit here
17 any more, whether it's an eleven to one for conviction
18 or an eleven to one for acquittal, changing not because
19 of someone convincing you but because of time factors.
20 Is there anyone who wouldn't be able to sit on the jury
21 with the total commitment necessary?

22 PROSPECTIVE JUROR: You mean the hours or
23 from --

24 MR. WALENSKY: It could be days. It takes
25 however long it takes, until the Judge --

Voir Dire - Defendant/Mr. Walensky

1 THE COURT: The fact is, ladies and
2 gentlemen --

3 The question really is, if you have a
4 particular view of the evidence and a particular view of
5 guilt or non-guilt of the defendant, are you going to
6 change your opinion merely because of time
7 considerations? Are you going to say, oh, I gotta get
8 out of here, I gotta go somewhere, or are you going to
9 have those time constraints affect your judgment?

10 In other words, is that going to affect your
11 ability --

12 PROSPECTIVE JUROR: My only thing is if -- I
13 take a class on Tuesday and Thursday from 6:00 to 9:30
14 at night.

15 THE COURT: I forgot to tell you, we don't
16 have sequestration so you will not be kept overnight.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: But if you're in a situation, like
19 the attorney said, where it's -- you're the lone person
20 holdout whether for guilt or non-guilt and you just
21 change your mind because it's convenient or because it's
22 a time consideration, are you going to do that?

23 PROSPECTIVE JUROR: No, no, no.

24 THE COURT: All right, go ahead.

25 Anybody going to do that?

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: Ms. Seivwright, you had some
2 question. Were you going to raise your hand about
3 something?

4 PROSPECTIVE JUROR: I think I don't feel
5 comfortable.

6 THE COURT: You indicated that you are not
7 comfortable, right?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Let's continue.

10 MR. WALENSKY: Thank you.

11 I have no further questions. Thank you,
12 ladies and gentlemen.

13 THE COURT: Ladies and gentlemen, I am going
14 to ask you to step outside. Do not discuss the case
15 amongst yourselves or anyone else. Do not visit the
16 place or premise. You don't have to do that. Just step
17 outside and do not engage in any conversation. We'll
18 call you back in, in a few minutes.

19 (Whereupon, the panel of prospective jurors
20 exited the courtroom.)

21 THE COURT: All right, those ladies and
22 gentlemen in the audience, same instruction, we'll ask
23 you to vacate your seats and we'll call you back in a
24 few minutes.

25 Do not disappear.

Voir Dire

1 (Whereupon, the panel of prospective jurors
2 exited the courtroom.)

3 THE COURT: All right, let's go.

4 First two, cause?

5 MS. CHU: No.

6 THE COURT: Cause?

7 MR. WALENSKY: No.

8 THE COURT: All right.

9 Perempt?

10 MS. CHU: None.

11 THE COURT: Perempt?

12 MR. WALENSKY: No.

13 THE CLERK: Kingsley McFarlane is juror number
14 eleven.

15 THE COURT: And McNair is number twelve, all
16 right.

17 All right.

18 First alternate, Lee, cause?

19 MS. CHU: No.

20 THE COURT: Cause?

21 MR. WALENSKY: No.

22 THE COURT: Perempt?

23 MS. CHU: No.

24 THE COURT: Perempt?

25 MR. WALENSKY: Yes.

Voir Dire

1 THE COURT: Perempt defense.

2 Laing, cause?

3 MS. CHU: No.

4 THE COURT: Cause?

5 MR. WALENSKY: No.

6 THE COURT: Perempt?

7 MS. CHU: No.

8 THE COURT: Perempt?

9 MR. WALENSKY: Yes.

10 THE COURT: Then you're out. I mean, you have
11 no further challenges except for --

12 THE CLERK: You challenged Lee and Laing.

13 MR. WALENSKY: Yes.

14 THE COURT: Nolberto, cause?

15 MS. CHU: No.

16 THE COURT: Cause?

17 MR. WALENSKY: No.

18 THE COURT: Perempt?

19 MS. CHU: Yes.

20 THE COURT: That's it for the People.

21 MS. CHU: Sorry, can you just give me one
22 moment? My pen ran out of ink.

23 THE COURT: Phillips, cause?

24 MS. CHU: Phillips, no.

25 THE COURT: Cause?

Voir Dire

1 MR. WALENSKY: No.

2 THE COURT: Perempt?

3 MS. CHU: No.

4 THE COURT: All right, that's alternate one.

5 All right, Larson, cause?

6 MS. CHU: No.

7 THE COURT: Cause?

8 MR. WALENSKY: No.

9 THE COURT: Perempt?

10 MS. CHU: No.

11 THE COURT: Perempt?

12 MR. WALENSKY: No.

13 THE COURT: All right, so she's alternate two.

14 I'll do one more.

15 Lamont, cause?

16 MR. WALENSKY: No.

17 THE COURT: Wait a minute.

18 People?

19 MS. CHU: No.

20 THE COURT: No, defense?

21 MR. WALENSKY: No.

22 THE COURT: Perempt?

23 MS. CHU: No.

24 THE COURT: Perempt?

25 MR. WALENSKY: Yes.

Voir Dire

1 THE COURT: Roberts, cause?

2 MS. CHU: No.

3 THE COURT: Cause?

4 MR. WALENSKY: No.

5 THE COURT: Perempt?

6 MS. CHU: No.

7 THE COURT: Cause?

8 MR. WALENSKY: No.

9 THE COURT: Roberts is selected.

10 Alternate two -- three.

11 MS. CHU: You want to do a fourth one, just in
12 case?

13 THE COURT: No.

14 MS. CHU: We are going to have four days off.

15 THE COURT: You want a fourth one?

16 MS. CHU: We're going to be out four days.

17 Thursday, Friday, Saturday, Sunday, Monday, five days,
18 actually.

19 THE COURT: Scott, cause? Cause, yes or no?

20 MR. WALENSKY: No.

21 MS. CHU: No.

22 THE COURT: Perempt?

23 MS. CHU: I perempt her.

24 THE COURT: Let's see.

25 People, Harris, cause?

Voir Dire

1 MS. CHU: No.

2 THE COURT: Cause?

3 MR. WALENSKY: No.

4 THE COURT: Perempt?

5 MS. CHU: No.

6 THE COURT: Perempt?

7 MR. WALENSKY: No.

8 THE COURT: That's alternate four.

9 All right, let's go.

10 MS. CHU: Thank you.

11 THE COURT: Get the panel, put them in the
12 front.

13 COURT OFFICER: All the jurors?

14 THE COURT: No, just the panel.

15 MR. WALENSKY: Before we open I would like to
16 use the restroom.

17 THE COURT: You don't have any witnesses
18 today?

19 MS. CHU: I do. I have a Crime Scene guy.

20 COURT OFFICER: Jury panel entering.

21 (Whereupon, the panel of prospective jurors
22 entered the courtroom.)

23 THE COURT: All right, let's go.

24 COURT OFFICER: We're missing one.

25 (Whereupon, there was a brief pause in the

Voir Dire

1 proceedings.)

2 COURT OFFICER: He went to the restroom.

3 THE COURT: All right, let's go.

4 THE CLERK: All right, ladies and gentlemen,
5 if you hear your name called that means you have been
6 selected to serve as a juror. If you do not hear your
7 name called, you're excused with the thanks of the
8 Court. Go back to the second floor, Central Jury, if
9 you don't hear your name called. If you hear your name
10 called, please say "here" or "present."

11 Juror number eleven will be Kingsley
12 McFarlane.

13 PROSPECTIVE JUROR: Here.

14 THE CLERK: Juror number twelve, William
15 McNair.

16 You have to say "here" or "present."

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: Alternate one, Marco Phillips.
19 Alternate two, Leslie Larson.

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: Alternate three, Jerlanie
22 (phonetic) Roberts.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: And alternate four, Sarah Harris.

25 PROSPECTIVE JUROR: Here.

Proceeding

1 THE CLERK: The rest of you can go back to
2 Central Jury, second floor.

3 THE COURT: Line up the other jurors, please.

4 THE CLERK: Will the six of you rise and raise
5 your right hand.

6 Do each of you sincerely and solemnly swear or
7 affirm that you will try this case in a just and
8 impartial manner to the best of your judgment and you
9 will render a verdict according to the law and evidence?

10 Your response?

11 (Whereupon, the jurors responded.)

12 THE CLERK: Have a seat for right now.

13 The rest of the jurors can be excused.

14 COURT OFFICER: Down to two?

15 THE CLERK: Yes.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 THE COURT: All right, have the jurors seated.

19 COURT OFFICER: One of them is using the
20 restroom.

21 THE COURT: Okay.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 COURT OFFICER: Ready for the panel?

25 THE COURT: They're lined up?

Proceeding

1 COURT OFFICER: Yes.

2 THE COURT: Bring them in.

3 COURT OFFICER: Jury entering.

4 (Whereupon, the Jury entered the courtroom.)

5 THE COURT: All right, the rest of the jurors,
6 fill the box.

7 Come on guys, let's go.

8 THE CLERK: Juror number eleven is Kingsley
9 McFarlane.

10 THE COURT: Come on up, sir. Come around.

11 THE CLERK: Juror number twelve, William
12 McNair.

13 Alternate number one, Marco Phillips.

14 Alternate two, Leslie Larson.

15 Alternate three, Jerlanie Roberts.

16 And alternate four, Sarah Harris.

17 THE COURT: Juror number one, your name?

18 PROSPECTIVE JUROR: Avelon Ramnath.

19 THE COURT: Ms. Ramnath, you are going to be
20 the foreperson of the jury. In other words, you will
21 have no greater powers or less powers than any other
22 juror except at the close of the case you will read the
23 verdict. You understand that's what your job will be,
24 okay?

25 PROSPECTIVE JUROR: Okay.

Proceeding

1 THE COURT: Okay. Very good.

2 All right, madam forelady, ladies and
3 gentlemen of the jury, at this point I am required to
4 instruct you generally concerning your basic functions,
5 duties and conduct and to acquaint you in a general way
6 with the trial procedure and certain rules which apply
7 to every jury so that you will be better able to assess
8 and weigh the evidence as it is presented and reach a
9 proper verdict.

10 The trial commenced with the selection of the
11 jury. The next step in the trial will be an opening
12 statement by the People, represented by the Assistant
13 District Attorney, during which she's required by law to
14 indicate to you what she intends to prove by way of
15 evidence to support the charges set forth against this
16 defendant.

17 Following that, defense counsel, if he
18 desires, may also make an opening statement, but what
19 counsel for either party says in an opening statement is
20 not evidence. You may consider the opening statement as
21 merely a preview of what each side intends to show by
22 way of evidence in the case.

23 After the opening statement or statements, the
24 Assistant District Attorney will present a witness or
25 witnesses who will be questioned by her. This is called

Proceeding

1 direct examination. After the Assistant District
2 Attorney completes her questions, defense counsel will
3 be given an opportunity to question the witness. This
4 is called cross-examination. After the People have
5 concluded the calling of their witnesses and
6 introduction of any exhibits which are admissible into
7 evidence, the defendant may offer evidence in his
8 defense.

9 After the defendant rests and People rest, the
10 defendant may make a closing argument following which
11 the People may make a closing argument, then I will
12 charge you on the law, then you will retire to
13 deliberate for purpose of reaching a verdict. That is a
14 general outline of trial procedure.

15 For the most part, evidence consists of
16 testimony of witnesses under oath and exhibits which are
17 introduced into evidence. Questions in and of
18 themselves are not evidence. Therefore, you cannot
19 infer any facts from the mere asking of a question. It
20 is the answer coupled with the question that constitutes
21 evidence.

22 For example, if a witness was asked a
23 question, do you own an automobile, and the witness
24 answered no, you cannot and you may not infer from his
25 answer that he in fact owns an automobile.

Proceeding

1 During the course of the trial either
2 attorney, Assistant District Attorney or the defense
3 counsel, may object to a question or an answer on the
4 ground that somehow it is legally improper or
5 inadmissible. If I sustain the objection, this means
6 that I believe that the question and the answer is in
7 some manner improper, therefore in the first instance
8 the question may not be asked, in the second instance,
9 if an answer has been given, I will say "strike it out,"
10 therefore the answer is no longer evidence in the case.
11 If I overrule the objection, that means that the
12 question is proper and I will permit it to be answered,
13 or if already answered, I will permit the answer to
14 stand as evidence in the case.

15 Please do not resent the fact that either
16 attorney makes objections, this is their duty, and do
17 not hold it against either attorney if I rule against
18 them.

19 As I have explained to you in detail in my
20 charge, as jurors in this case you are the sole judges
21 of the facts and I am the sole judge of the law. You
22 must accept the law as I give it to you without
23 hesitation or reservation, even if you privately
24 disagree with me.

25 You must keep an open mind, you must not speak

Proceeding

1 or talk among yourselves or with anyone else on any
2 subject connected with the trial.

3 You must not either offer nor express an
4 opinion as to the guilt or non-guilt of the defendant
5 until I finally give the case to you.

6 You must not read or listen to any account or
7 discussion of the case in the event that it's reported
8 in newspapers or other media.

9 Now, ladies and gentlemen, this admonition by
10 the Court that you are not to discuss the case amongst
11 yourselves or with anyone else is probably the most
12 difficult to comply with because it's counterintuitive,
13 it's counter to human nature. When people are thrown
14 together for a short period of time, the natural thing
15 is if they hear or see something, one turns to the
16 other, did you hear that, did you see that, and they
17 start talking about it. You are not to allowed to do
18 that while the case is in progress. You are not allowed
19 to do that when you leave here. You are not allowed to
20 do that when you go home. And when you go home, it's
21 probably going to be even more difficult because
22 probably if you have somebody at home, they're going to
23 be saying, oh, you are on a trial, what kind of case is
24 it? You say, I can't tell you. Why? Because the Judge
25 instructed us that we are not to discuss the matter till

Proceeding

1 the matter is over. And the fact of the matter is,
2 ladies and gentlemen, I'm sure whoever is at home will
3 understand, you say this case is not going to be going
4 for a very long period of time, in fact we're only
5 meeting about three days this week, today and Tuesday
6 and Wednesday, then a couple of days maybe next week,
7 all right, after the holiday. So, you gotta be
8 resolute, you say, listen, I will tell you all about it
9 once it's over with, all right.

10 You must not visit or view the premises or
11 places where the alleged crime was committed or any
12 other premise or places involved in the case. Promptly
13 report any incident within your knowledge involving any
14 attempt by any person who seeks to improperly influence
15 any member of the jury. Also, you are not to have any
16 contact with any of the parties involved in this matter.
17 You know, you come in the morning -- this, again, is
18 counterintuitive because people who are thrown together
19 for a period of time, they like to exchange normal civil
20 amenities, good morning, how are you, nice day, blah,
21 blah, you are on your way, right. Let's assume Ms.
22 Ramnath comes in the morning and Ms. Chu is in the
23 hallway and she wants to say hello and, well, the fact
24 is that's not permitted. Although her intentions are
25 very innocent, she just wants to be nice and friendly,

Proceeding

1 she is not allowed to do that. You're not allowed to
2 even, when you pass me or anybody else involved here, go
3 "hi," anything like that. Don't arch your eyebrow. You
4 are not allowed to do that, all right. Because, in
5 effect, it's a violation of a rule that we call the
6 appearance of impropriety. You're not doing anything
7 wrong, you're trying to be nice and you're not allowed
8 to do that also, and until you are discharged from
9 service, then you can speak to anybody you wish or you
10 can have anybody you wish speak to you, and that will
11 rest within your discretion, okay.

12 Another thing I'm always asked, if they may
13 take notes. I am going to permit you to take notes.
14 You will be provided with pens and a notebook so that
15 you may take these notes. You are not required to take
16 notes. Whether you choose to take notes, it's entirely
17 up to you. Each individual must decide for yourselves
18 whether taking notes assist you in refreshing your
19 recollection of the proceedings. Now, some people may
20 find it difficult to take notes and also pay attention
21 to the trial. You should not feel any pressure to take
22 notes because some fellow jurors may choose to do so.
23 If you are note taking and you feel because of the note
24 taking you will not be able to concentrate on the
25 proceedings, then feel free not to take notes. If you

Proceeding

1 do decide to take notes, you must be careful not to let
2 your note taking become a distraction from the
3 proceedings.

4 You must bear in mind that notes are merely an
5 aide to your memory, they are for your personal use
6 alone, to help you refresh your recollection of the
7 evidence, but they are not superior to any juror's
8 independent recollection of what took place during the
9 proceedings. Most importantly, they are not a
10 substitute for the official record of the proceedings
11 which is assembled by the Court Reporter, this young
12 lady right here. If you remember what occurred during
13 the proceedings is different than what you have written
14 in your notes, you should request a readback of the
15 transcript. If there is a difference between your notes
16 and the official transcript of the proceedings, you must
17 rely on the official transcript and not the notes.

18 This rules applies not only to evidence but
19 also to any differences that might exist between your
20 notes and the official record of my instructions on the
21 principles of law that govern the case.

22 If you do not take notes, you should rely on
23 your own recollection of the evidence and my
24 instructions on the law and you must not be swayed by
25 the fact that another juror may have notes indicating

Proceeding

1 that the evidence or the Court's charge on the law was
2 different than you recall.

3 If there is a dispute about the evidence or
4 the Court's instructions, jurors can request a readback
5 of the transcript to resolve the dispute. You must
6 rely on the official transcript. The notebooks will be
7 collected during the lunch breaks and at the end of
8 the day during the trial. The notes will be stored in
9 a secure place for safekeeping and no one will read
10 them.

11 All right, you may proceed with your opening.

12 THE CLERK: Judge.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 THE COURT: Before we proceed, raise your hand
16 if you want the notebooks, we will distribute them and
17 the pens and pencils.

18 (Whereupon, there was a brief pause in the
19 proceedings.)

20 THE COURT: If you don't have a pencil or pen,
21 we will go get you one.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 THE COURT: Okay, you may proceed.

25 MS. CHU: Thank you.

Opening - People/Ms. Chu

1 Good afternoon, ladies and gentlemen.

2 On January 3rd, 2012 the body of Anthony
3 Wilson was found dead inside of his apartment at 832
4 Bushwick Avenue. Through the course of this trial
5 you're going to learn how the evidence will lead you to
6 come to the same conclusion, beyond a reasonable doubt,
7 that it was Atara Wisdom who was responsible for his
8 intentional murder.

9 Now, the way this all gets started is that
10 the police get called by Mr. Wilson's landlord, Donet
11 Robinson, and Mr. Robinson tries to -- he hadn't seen
12 the victim in a while, he gets the key that he has to
13 the apartment, he goes inside -- this is January 3rd.
14 When he enters, he finds Mr. Wilson on his bed, dead,
15 naked, there's a wreck in the house, the apartment is
16 ransacked, it's got blood smears on the floor, there's
17 clothing on the floor, there's feces on the floor.
18 So, he immediately calls 911 and the police arrive.

19 Now, you are going to learn that Police
20 Officers Marsden and Ortiz, they come from the 83rd
21 Precinct, they get called by the 911 operator to go to
22 the location to check it out. When they get there,
23 they confirm that Mr. Wilson is definitely in need of
24 assistance, they call for an ambulance and an ambulance
25 confirms that he's dead and has been dead for sometime.

Opening - People/Ms. Chu

1 Now, the officers, Marsden and Ortiz, they
2 continue to secure the scene. What this means, they
3 tried and preserve the apartment as close to how it was
4 when they initially got there, so they don't let anybody
5 go in and out.

6 Basically it's a studio apartment, there's a
7 bed in there, there's a TV, there's a kitchen area, then
8 there's a bathroom. It's a very small apartment. It's
9 about nineteen by fifteen, and that encompasses
10 everything.

11 So, what you will learn is that Detective
12 Markoski, along with his partner, are assigned from the
13 Crime Scene Unit. When they first arrive, they'd seen
14 that everything has been secured by officers from the
15 83rd Precinct, they recover some of the clothing that
16 was on the floor inside the apartment next to where the
17 body was, they take photographs, they take measurements,
18 they actually take swabs of blood that's found
19 throughout the apartment and they arrange to have that
20 sent for testing.

21 Now, in the meantime, Mr. Wilson's body was
22 taken to the morgue. He's pronounced by EMS people,
23 he's taken to the Medical Examiner's Office where Frede
24 Frederic, who used to be with the Medical Examiner's
25 Office, she's since retired, she actually conducted an

Opening - People/Ms. Chu

1 autopsy on Mr. Wilson's body. What she finds is that he
2 has seven stab wounds to his body. He's got six in the
3 front of him and one in the back, and the ones that
4 really did the most damage, because there is -- there
5 was one to the right chest that was maybe a half inch,
6 the one in the back went in about two inches but it
7 didn't puncture any of the major organs. Mr. Wilson's
8 body, what you're going to learn, is that the five
9 wounds that were on the left side of Mr. Wilson's body
10 all went in about a depth of five to six inches. What
11 it did was, all of those stab wounds, they perforated
12 one of the parts of his heart, they also perforated his
13 left lung, and that's what the cause of death was for
14 Mr. Wilson.

15 And they found various evidences that the body
16 had already started to decompose, had been there for
17 some time and that there was partial mummification of
18 parts of the body, and also there were like maggots and
19 stuff in the body, that shows how far along the
20 decomposition had taken place.

21 Now, from Detective Geoffrey Hernandez, he was
22 the assigned detective who was in charge of that
23 investigation, and he along with Detective Christopher
24 Scandole from Brooklyn North Homicide, began to
25 investigate to try to figure out what happened to Mr.

Opening - People/Ms. Chu

1 Wilson. So one of the people that they spoke to was a
2 person by the name of Matthew Shepard. And you are
3 going to learn that Matthew Shepard knew the victim but
4 he also knew the defendant, and he knew that she had
5 been staying with the victim. When he got a phone call
6 from her around -- he didn't remember exactly the time,
7 it was a couple of weeks before, he wasn't really sure
8 of the time, but a couple of weeks before he actually --
9 I'm sorry -- they found the body of Mr. Wilson. And he
10 said that sometime around Thanksgiving he had actually
11 met her and he had explained he was interested in her,
12 if she could get away from the guy, from Tony, who's the
13 victim, he was interested in dating her. And what
14 happens is she calls him early in the morning and she
15 says, I'm in a -- I have a problem, I'm in a situation,
16 and she tells him, can I meet you.

17 And so he agrees to meet her and he meets her
18 in Bushwick. When he meets her, she has four big bags
19 with her.

20 What are you, like a homeless lady, he goes?
21 What happened? You with Anthony?

22 And she was like I was paying him rent and he
23 wanted to have sex with me and I wasn't having that so I
24 poked him.

25 What you'll learn, in street terms that means

Opening - People/Ms. Chu

1 she stabbed him. And Mr. Shepard goes, well, you can't
2 stay with me but you can hang out in my house until you
3 get -- somebody gets you, and he said that is all he
4 talked about with her, he didn't want to have any
5 further conversations. That was the last time that he
6 had seen her.

7 Now, Mr. Shepard had been spoken to around
8 the time that Mr. Wilson's body was recovered. Now,
9 from Mr. Shepard they find out what Mr. Wilson's
10 cellphone number was. They begin to get phone records
11 for that number. What you'll learn, and you're actually
12 going to hear from a representative from Sprint Nextel
13 who will give you and show you, these are the records
14 that are kept there, it shows you all the call details.
15 What they learned from those call details is that on
16 November 29th, 2011, at approximately 12:37 A.M. Anthony
17 Wilson's number calls 911. And you're going to actually
18 hear that 911 call that was made by Mr. Wilson. What he
19 said was, I got this girl in my house, I don't know
20 what's wrong with her, she's acting crazy and I want her
21 out.

22 You are going to actually hear the final words
23 that were said by Mr. Wilson presumably before he is
24 murdered by the defendant.

25 In the meantime, the blood samples that had

Opening - People/Ms. Chu

1 been sent to the lab from -- remember, Detective
2 Markoski gets the swabs from throughout the apartment
3 and sends them to the lab and has them tested. You are
4 going to learn from Sarah Philipps, who's a criminalist
5 at the Office of the Chief Medical Examiner, in their
6 DNA department, that she had tested those samples and
7 she found some of the samples belonged to Mr. Wilson but
8 two of the samples that came from the bathroom belonged
9 to a female unknown donor. And what happened was
10 they're able to get take an unknown sample, they label
11 it, they term it female donor A. They have an unknown
12 sample, they can't figure out who it is, they upload it
13 into the system and when they get that back it comes
14 back with a DNA hit to Atara Wisdom.

15 So, they begin to look for her, and in July
16 2012 -- this is now -- if the 911 call was November
17 29th, 2011, we are talking about more than six months
18 later, July of 2012, they locate Ms. Atara Wisdom at a
19 homeless shelter and they bring her back to the 83rd
20 Precinct for questioning.

21 Now, what you're going to learn is by now
22 Detective Geoffrey Hernandez, who was with the 83rd
23 Precinct, he's now with Brooklyn North Homicide, so his
24 case has gotten transferred to a new detective by the
25 name of Deborah Batanjani and they -- they bring the

Opening - People/Ms. Chu

1 defendant back to the precinct, they read her Miranda
2 rights. After she agrees to speak with them, what she
3 told the detectives is that she had needed a place to
4 stay and had moved in. Wisdom's doctor's office was
5 over on Broadway and he met over there, he would give
6 her money, and when he used crack, when he smoked, he
7 would become a different person.

8 She said one night when she was sleeping she
9 woke up, he was touching her under her shirt and she
10 told him it's not like that and that's not why she was
11 there. She got into an argument and she had left.

12 She then tells the detectives, then around
13 Thanksgiving they got into another argument, it got very
14 heated and loud, so she left and went to her sister's
15 house for a couple of days. She tells the detectives
16 she spoke with the victim on the phone a couple of times
17 and had gone back to the apartment to get clothes
18 because she had an interview set up for the following
19 day.

20 She said when she arrived he was acting okay,
21 like how he was when she first met him, and later that
22 night she was on the couch getting her clothes and he
23 tells her, oh, I am going to get some -- excuse the
24 word -- pussy tonight.

25 And she said, oh, well, then let me get out

Opening - People/Ms. Chu

1 the way.

2 She tries to get her stuff and get out. What
3 he does, she says he stands in front of the exit of his
4 apartment and says, nah, nah, you're not going, and he
5 takes -- she says he takes something like a pink belt
6 and wrapped his hand. He doesn't do anything with the
7 belt. She then picks up a knife. She says she puts it
8 under her sweater. When he punches her in the face when
9 she stood up, he pulls the sweater up and starts
10 punching her on the shoulder and back, and over her
11 head, he started to push her head down to the floor.
12 She said she thought if it hits the floor, she's going
13 to be dead, so she takes out the knife and she stabbed
14 at him, then she ran into the bathroom, she saw she had
15 a big knot to her head, her shoulder was all bruised,
16 she got her stuff together and in a duffle bag and went
17 to Ebony's house. That's the statement she initially
18 gives to the detectives.

19 After this she takes the statement -- the
20 detectives actually write what it is she said to them
21 and they read it to her, she then looks at it to make
22 sure it's accurate, then she signs it and the detective
23 signs.

24 You're actually going to see the written
25 statement that was written by the detective.

Opening - People/Ms. Chu

1 The detective then arranges to have a lineup
2 with Atara Wisdom and contacts Mr. Shepard to come to
3 the precinct, and when Mr. Shepard views the lineup, he
4 identifies the defendant in position number two as the
5 person he knew as Renee. Now, he didn't know --
6 actually, he said her name Renee. He identifies Atara
7 Wisdom as the same woman who called him early in the
8 morning and met with him and told him she poked Anthony
9 because he wanted sex and rent.

10 Now, the defendant was then asked if she wants
11 to talk to the District Attorney's Office, which she
12 agrees to do. You are going to hear A.D.A. Ed Purce
13 then responds to the precinct, he actually speaks to
14 her. You are going to see on video the conversation
15 that was had between the defendant, Atara Wisdom, and
16 A.D.A. Ed Purce. And in essence she says something
17 along the same lines that she told the detective, now
18 she is not mentioning Ebony, now there was a Tiffany
19 that she had stayed with, she told Tiffany what had
20 happened to her.

21 Now, she also tells the detectives that some
22 time after she stabbed him, when she came out of the
23 bathroom she saw him lying on the bed, she picked up his
24 phone, his keys and his wallet when she left because she
25 was using his phone and called someone but she was in a

Opening - People/Ms. Chu

1 fog, she doesn't remember who it was she called.

2 She walked around for a while, she threw out
3 his keys, she kept his wallet but didn't use anything in
4 it and she had gone to Tiffany's house on Rutland and
5 East 93rd, stayed there for a couple of days and then
6 she kept using his phone but then threw it out, and she
7 said his benefits card, the Welfare benefits card, she
8 denied ever using it.

9 You are going to actually hear from the
10 Welfare, I guess it's Human Resources Administration
11 responsible for Welfare benefits cards, there actually
12 is activity on Mr. Wilson's benefit card after the
13 date of November 29th, 2011 and it shows consistent
14 areas with where the defendant used to use her benefits
15 card.

16 Now, that is what the case is all about,
17 ladies and gentlemen. You are going to hear from
18 detectives and officers who responded and investigated
19 this case. You are going to hear from the ME, or the ME
20 who's going to tell you what the injuries were to Mr.
21 Wilson and show what his cause of death was. You're
22 going to hear from the crime scene detectives that
23 process the scene, see pictures of the actual apartment,
24 and after you hear all this evidence, I am going to come
25 back here before you and show you how the evidence

Opening - Defendant/Mr. Walensky

1 proves that the defendant, Atara Wisdom, intentionally
2 killed Anthony Wilson sometime between November 29th,
3 2011 and the day he was found, January 3rd, 2012, and
4 I'm going to ask you to return a verdict of guilty based
5 upon that evidence.

6 Thank you.

7 THE COURT: Mr. Walensky.

8 MR. WALENSKY: Thank you, your Honor.

9 Good afternoon, ladies and gentlemen.

10 The Grand Jury of the County of Kings by this
11 indictment accuses the defendant of the crime of murder
12 in the second degree committed as follows: The
13 defendant, which would be Atara Wisdom, on or about
14 November 29th, 2011, in the County of Kings, with
15 intent to cause the death of Anthony Wilson, caused
16 the death of Anthony Wilson by means of stabbing him
17 thereby inflicting various wounds and injuries upon
18 Anthony Wilson and thereafter, and on or about November
19 29th, 2011, Anthony Wilson died of the wounds and
20 injuries.

21 Ms. Chu has just made a promise to you that
22 she will prove that charge.

23 I have to use a litany here, because as the
24 Judge told you, what we say here isn't evidence. She
25 has recited what she plans to try to prove.

Opening - Defendant/Mr. Walensky

1 I submit to you that the evidence will show
2 People have a theory here, they're trying to fit it to
3 the fact that Anthony Wilson is dead.

4 Now, Anthony Wilson was not a bad man. I will
5 show that he had problems with drugs, alcohol, generally
6 pretty decent, but that when he got drunk or smoked
7 crack, and he smoked crack, that he would change, as
8 some people do, would become abusive, he would become
9 forward, he would become somewhat other than the Anthony
10 Wilson that was sober Anthony Wilson.

11 You will discover, at the time of his death
12 Mr. Wilson had an alcohol content of above .2 in his
13 system. He was intoxicated almost three times over the
14 legal limit of intoxication.

15 The evidence will also show that he had
16 residue of cocaine, that is, the byproduct of cocaine in
17 his system at the time of his death. The expert will
18 tell you that, in fact, when someone dies, your body
19 ceases metabolizing the substance. At the time of his
20 actual death that's what he had, and I submit to you,
21 the evidence will show that he did not immediately die.
22 You are going to see crime scene photos and you will
23 have to make up your mind, and what I submit to you,
24 it's not going to really show you exactly what happened,
25 it's not going to show you when he died, so that when

Opening - Defendant/Mr. Walensky

1 this assault upon Ms. Wisdom happened, he was that much
2 drunker and that much more stoned.

3 Now, Ms. Wisdom -- the evidence will show that
4 Ms. Wisdom was not his girlfriend, she would stay there,
5 she paid him money, sometimes one hundred bucks here, a
6 hundred bucks there.

7 She had recently become, quote, unquote,
8 homeless, but that she had actually had lost another
9 place recently, and she would sleep on -- you're going
10 to hear a statement it was a couch, but it was more like
11 a recliner, almost a futon that folded down.

12 She was not having sex with Anthony Wilson.
13 The evidence will show that in fact he previously had
14 tried to have sex with her but he hadn't been
15 particularly forceful, it's like get away from me or,
16 come on, knock it off, Tony, because he was known as
17 Tony and people in the neighborhood who knew Atara as
18 Renee. And he would knock it off. But this night he
19 said, I'm going to get me some pussy and he was pretty
20 drunk and he was pretty stoned, and when she wanted to
21 leave -- you will see a diagram of the apartment, if you
22 can call it that, really a room without a window in it,
23 and the entrance -- the exit was blocked. And when he
24 wrapped a belt around his hand and Atara got nervous and
25 took out a knife, not holding it in -- but the testimony

Opening - Defendant/Mr. Walensky

1 will show she had a sweater kind of like with big
2 pockets -- the name escapes me, eludes me at the present
3 time -- but she put it in the pocket of the sweater, not
4 holding it here, not hidden in the folds, and that when
5 she got up -- you're going to see a diagram, and as
6 she's walking toward her stuff, she had a duffle bag,
7 she had clothing because she was going to leave the next
8 morning for a job interview, he punched her in the head
9 and she started going down. And I submit to you, when
10 she said if I went down I was dead, it wasn't literally
11 thinking he was going to murder her, she was dead
12 because if she went on the ground he'd be able to get on
13 top of her and rape her. That is really what "I was
14 dead" means. We have to look at things within the
15 context.

16 MS. CHU: Objection, your Honor.

17 THE COURT: Sustained.

18 MR. WALENSKY: I submit to you, look at the
19 evidence, and what you're going to hear are
20 circumstances that can be looked at two or -- two or
21 three different versions of the fact.

22 Now, when this occurred, she fought Mr. Wilson
23 and you're going to see there aren't defensive wounds on
24 his hand as though she was coming at him with a knife
25 and swatting at him and there's something on his arms or

Opening - Defendant/Mr. Walensky

1 hands. What you're going to see are straight-on wounds.
2 I submit to you, the reason for this is because he was
3 on top of her, she took her knife and she started to
4 just stab him.

5 Now, the Judge at the end of the trial will
6 tell you what is justified, and I submit that when you
7 hear the charge of justification, when the Judge gives
8 that to you, you will find that you will have to acquit
9 Atara Wisdom.

10 But getting back to what had happened, there
11 are no defensive wounds. She is stabbing him, he let's
12 her go, she gets up, runs into the bathroom and locks
13 herself in.

14 The evidence will show she said that he was at
15 least partially clothed, had his pants on, but you will
16 see --

17 MS. CHU: Objection. That's not -- he is
18 making argument to the jury.

19 MR. WALENSKY: The evidence will show that he
20 was partially clothed.

21 THE COURT: It's okay.

22 MR. WALENSKY: And that when the police come
23 in, his landlord comes in and the police come in and
24 secure the scene, he is on the bed naked.

25 The evidence will show there's blood and feces

Opening - Defendant/Mr. Walensky

1 on the floor next to the bed. You will see photos of
2 this. There is blood in the bathroom in the sink,
3 there's some blood spatter. The evidence will show
4 that -- and Ms. Wilson (phonetic) left the apartment
5 saying that he was on the bed when she left.

6 I submit to you, the evidence, the physical
7 evidence you are going to see will show that Anthony
8 Wilson wasn't dead when she left that apartment. She
9 left, she scooped everything off the dresser, not just
10 his stuff, her stuff, just basically the telephones and,
11 you know, a wallet and her own stuff, just like scooping
12 something right off, everything left. And she was very
13 upset.

14 The evidence will show that in fact Tony, Mr.
15 Wilson, didn't lay on that bed and die when she left.
16 You will see from the physical evidence that there is
17 blood all around and that he took his clothing off. He
18 emptied himself, because at that point he was dying,
19 that's where the feces and the blood, I submit to you,
20 we will show, came on the floor, and he collapsed naked
21 on the bed. He was trying to help himself and reach for
22 things and then he collapsed and died.

23 The evidence is also going to show that Atara
24 was very upset. She called Matthew Shepard.

25 Now, he wasn't a close friend or a buddy.

Opening - Defendant/Mr. Walensky

1 You'll hear that they'd met perhaps twice before. And
2 when she calls, Matthew Shepard will say when she called
3 she sounded upset, wanted to see him. The evidence will
4 show that Matthew Shepard saw her and when she saw him
5 and met her in the early morning hours she told him what
6 happened, he tried to rape me, he tried to --

7 MS. CHU: Objection.

8 MR. WALENSKY: -- have sex with me.

9 MS. CHU: Objection.

10 THE COURT: Excuse me.

11 I'll overrule it.

12 MR. WALENSKY: The evidence will show, right,
13 she said I am paying him rent, he tried to have sex with
14 me, I poked him, in the shorthand kind of thing.

15 I submit to you that she ultimately makes a
16 statement saying in terms of the shorthand, the man was
17 trying to rape her.

18 THE COURT: Sustained.

19 MR. WALENSKY: And --

20 THE COURT: This is not the summation.

21 MR. WALENSKY: I understand.

22 THE COURT: This is the evidence.

23 MR. WALENSKY: This is what the evidence will
24 show, your Honor.

25 THE COURT: Show what?

Opening - Defendant/Mr. Walensky

1 MR. WALENSKY: It will show that she in fact
2 said that she -- that the decedent tried to rape her.
3 That's what she said to the police.

4 THE COURT: Go ahead.

5 MR. WALENSKY: But regarding Matthew Shepard,
6 she asked Matthew Shepard -- she told him what happened,
7 come back with me, she wanted to go back there because
8 she didn't know, but she didn't want to go back alone.
9 And he said, no, no, I'm not. With that -- and Matthew
10 Shepard's basically going to tell you he was essentially
11 seeing if he can have sex with Atara right at that point
12 and he didn't want to go back, and he left and that was
13 pretty much it.

14 So that Atara went to this, the -- her
15 friend's, she was in a bad state, she was upset, she
16 went to a friend's house, left -- was there for a while,
17 left Mr. Wilson's wallet there.

18 You'll find there is one store in the area --
19 I mean, if the benefit card is used, it could be used by
20 her, by someone else, but the evidence -- it's not just
21 the evidence -- the indictment doesn't contain any sort
22 of charge for larceny, robbery, anything like that.
23 This is -- she is just charged with one count of
24 intentionally wanting to murder Tony Wilson.

25 The evidence will show that she did not intend

Opening - Defendant/Mr. Walensky

1 to murder Anthony Wilson.

2 Ladies and gentlemen, you are going to have a
3 difficult task. Look at the evidence, look at the
4 witnesses. What the evidence will show is there are no
5 eyewitnesses to this. The evidence will show that it is
6 circumstantial evidence and the evidence will also show
7 that it is circumstance by which several different
8 theories of what happened can be applied, and at the end
9 the evidence will show that you will not have an answer
10 as to what actually happened. No amount of wishing and
11 hoping can make that. So, I ask you to take this task
12 very seriously and at the end of this endeavor come back
13 with a not guilty verdict.

14 Thank you.

15 THE COURT: Come on up, please.

16 (Whereupon, a sidebar conference was held off
17 the record.)

18 (Whereupon, subsequent trial testimony was
19 stenographically recorded and transcribed separately.)
20
21
22
23
24
25

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS: CRIMINAL TERM: PART 2
3 -----X
4 THE PEOPLE OF THE STATE OF NEW YORK,
5
6 -against-
7
8 ATARA WISDOM,
9
10 Defendant.
11 -----X
12

Indictment No.:
6615/2012
(Trial)

13
14 Supreme Courthouse
15 320 Jay Street
16 Brooklyn, New York 11201
17 June 30, 2014

18 B E F O R E:

19 THE HONORABLE ALBERT TOMEI, JUSTICE
20 (And a Jury)

21 A P P E A R A N C E S:

22 HON. KENNETH P. THOMPSON, ESQ.
23 District Attorney - Kings County
24 350 Jay Street
25 Brooklyn, New York 11201
BY: PHYLLIS CHU, ESQ.
Assistant District Attorney

DAVID WALENSKY, ESQ.
Attorney for Defendant
910 Stuart Avenue
Mamaroneck, New York
BY: DAVID WALENSKY, ESQ.
- and -
JOSHUA POVILL, ESQ.

MARLIN CASSIDY
Senior Court Reporter

Det. Markoski - People - Direct/Ms. Chu

1 (Whereupon, the following took place in open
2 court:)

3 THE COURT: All right, call your first witness
4 please.

5 MS. CHU: The People call Detective Stephen
6 Markoski.

7 (Whereupon, there was a brief pause in the
8 proceedings.)

9 COURT OFFICER: Witness entering.

10 (Whereupon, Detective Stephen Markoski entered
11 the courtroom and took the witness stand.)

12 THE CLERK: Raise your right hand.

13 Do you solemnly swear or affirm the testimony
14 that you're about to give will be the truth, the whole
15 truth and nothing but the truth, so help you God?

16 THE WITNESS: Yes, I do.

17 THE CLERK: Can you state your name for the
18 record?

19 THE WITNESS: Detective Stephen Markoski.

20 THE CLERK: Spell your first and last name.

21 THE WITNESS: S-T-E-P-H-E-N, M-A-R-K-O-S-K-I.

22 THE CLERK: Give your shield number.

23 THE WITNESS: 66842.

24 THE CLERK: And your command?

25 THE WITNESS: Crime Scene Unit, New York City

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1 Police Department.

2 THE CLERK: Thank you.

3 THE COURT: You may have a seat.

4 Pull your chair up to the microphone. Place
5 your lips close to the microphone when responding to any
6 question.

7 Proceed.

8 MS. CHU: Thank you.

9 S T E P H E N M A R K O S K I, Detective, Shield No.
10 66842, Crime Scene Unit, New York City Police
11 Department, called as a witness by and on behalf of
12 the People of the State of New York, after having
13 been first duly sworn, was examined and testified
14 as follows:

15 DIRECT EXAMINATION

16 BY MS. CHU:

17 Q Good afternoon, Detective.

18 A Good afternoon.

19 Q How long have you been with the New York City
20 Police Department?

21 A Twenty-two years.

22 Q You said you're currently assigned to the Crime
23 Scene Unit. Can you tell me how long you have been with
24 them?

25 A I have been with the Crime Scene Unit for six

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1 years.

2 Q Can you tell us about your career with the N.Y.P.D.
3 starting from when you got out of the Academy?

4 A After the Academy I was assigned to the 84th
5 Precinct in downtown Brooklyn for twelve years. After that I
6 went to Brooklyn North Evidence Collection for four years and
7 the last six years with Crime Scene Unit.

8 Q Did you receive special training to become a member
9 of the Evidence Collection Team as well as the Crime Scene
10 Unit?

11 A Most of the training that I received was on-the-job
12 training, such as photography, fingerprints, DNA extraction,
13 sketching.

14 Q Now, what does the Crime Scene Unit do? What are
15 your duties and responsibilities as a member of that unit?

16 A The Crime Scene Unit's responsibility is to assist
17 the precinct detective squads in gathering evidence to assist
18 them in their investigations.

19 Q What type of crimes are you responsible to respond
20 to as a member of the Crime Scene Unit?

21 A Any major crime in the City of New York, such as
22 homicides, police involved shootings, rapes, sexual crimes.

23 Q Now I want to direct your attention to January 3rd,
24 2012. Were you working as a crime scene detective on that
25 date?

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1 A Yes, I was.

2 Q Can you tell the members of the jury what your
3 hours were?

4 A That day I believe I was working 7:00 in the
5 morning till 3:00 in the afternoon.

6 Q Were you assigned to a partner?

7 A Yes, I was.

8 Q Who was that?

9 A Detective Streichert.

10 Q Now, on that date did you respond to 832 Bushwick
11 Avenue here in Brooklyn?

12 A I did.

13 Q Can you tell me approximately what time you
14 arrived?

15 THE WITNESS: Do you mind if I look at my
16 notes, Judge?

17 THE COURT: No, go ahead.

18 A We arrived at 2:42 in the afternoon.

19 Q Okay.

20 When you arrived, were there other police personnel
21 present?

22 THE COURT: What date was this, January what?

23 MS. CHU: January 3rd.

24 THE COURT: What time did you arrive?

25 THE WITNESS: 2:42 P.M.

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1 Q Now, when were you notified about this case?

2 A Two o'clock P.M.

3 Q Okay.

4 And were police personnel present when you arrived?

5 A Yes.

6 Q And can you tell me, was a crime scene established?

7 A It was.

8 Q What does that mean, to have a crime scene
9 established?

10 A Crime scene established means you place -- the
11 location where the crime occurred was roped off with crime
12 scene tape and there was patrol there safeguarding the crime
13 scene to prevent anybody from entering.

14 Q Okay.

15 Can you tell me, once you arrived, what did you
16 do?

17 A First thing I did was I conferred with the precinct
18 detective, Hernandez, from the 83rd Precinct, find out the
19 information that he knew at that time and conferred with him
20 as to what kind of evidence he had and what he wanted
21 processed.

22 Q Okay.

23 Did you then do something called a walkthrough?

24 A I did.

25 Q What is that?

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1 A Basically, it's to walk through the scene with the
2 detective, have him pointing out things that he's found out
3 about the investigation up until that point, and like I said,
4 he will dictate to me what he wants processed as far as the
5 crime scene.

6 Q Can you tell me, how did the scene appear when you
7 arrived?

8 A The scene was in disarray. It was a cold apartment
9 and it was bloody, and there was a deceased gentleman on a
10 bed.

11 Q Can you tell me, what was the condition of the --
12 I'm sorry, withdrawn.

13 Did you take photographs of the scene?

14 A I did.

15 Q Did you also take measurements?

16 A I did.

17 Q What is the purpose for measurements?

18 A The measurement is just to give an idea of how big
19 the crime scene was, the apartment.

20 Q Did you do a sketch of the actual crime scene?

21 A Yes, I did.

22 Q For what purpose is that?

23 A It's to give a layout, a general layout for court
24 purposes, to show what the crime scene looked like as far as
25 an overhead view.

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1 Q You said you also took photos of the scene. Did
2 you take photos of the actual victim?

3 A I did.

4 Q Did you have occasion to examine the body of the
5 victim with the medical-legal investigator?

6 A Yes, I did.

7 Q What was the state of the body?

8 A The body was in a state of advanced decomposition,
9 the skin was peeling off, there were maggots throughout most
10 of the body.

11 Q Now, can you tell me, could you see any obvious
12 injuries on the victim's body when you were there?

13 A I was with the medical examiner and he's trained in
14 that type of thing more than I am, I'm led by his lead, and
15 we saw some injuries, but because of the advanced state of
16 the decomposition he could not make any determination what
17 injuries were at that time.

18 Q Okay.

19 Now, was there any sign of forced entry into the
20 apartment itself?

21 A Not that I saw.

22 Q What kind of apartment was this?

23 A It was a ground floor apartment, extremely small.
24 Basically, I guess you would call it a studio.

25 Q Okay.

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1 There was a place to sleep, a bathroom and a
2 kitchen?

3 A That's about it, yeah.

4 Q Okay.

5 Now, what type of evidence did you begin to collect
6 from the scene?

7 A Well, when we first arrived, we weren't sure if a
8 crime had occurred. The evidence that we took was just stuff
9 that would be sent to the Property Clerk for possibly future
10 recall. So, it was basically some clothing, some soiled
11 clothing, and what appeared to be possible traces of blood at
12 various points of the apartment.

13 Q Did you take what are known as DNA samples from the
14 areas where you saw blood in the apartment?

15 A Yes.

16 Q Can you tell me, did you -- I'm sorry, withdrawn.

17 MS. CHU: At this time, your Honor, if I can
18 have this deemed marked People's Number 1 for
19 identification.

20 (Whereupon, the exhibit was shown to counsel.)

21 (Whereupon, the exhibit was shown to the
22 witness.)

23 Q Detective Markoski, do you see what is being shown
24 to you as People's 1 for identification?

25 A Yes, I do.

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1 Q What do you recognize -- I'm sorry.

2 Do you recognize what is deemed marked People's 1
3 for identification?

4 A Yes.

5 Q What do you recognize that to be?

6 A That is a sketch I prepared on January 3rd, 2012,
7 of the -- an overhead view of the crime scene at 832
8 Bushwick.

9 Q Is this diagram to scale?

10 A No, it's not.

11 Q What does that mean, that it's not to scale?

12 A It means that the -- obviously this picture right
13 here is not the identical size of the apartment, it's just to
14 give an illustration about what it looked like.

15 Q Where things are in relation to others?

16 A Exactly.

17 Q Did you make any markings on this with regards to
18 the evidence that you recovered in this case?

19 A Yes, I did.

20 MS. CHU: Now, at this time I'd like to offer
21 into evidence as -- I'm sorry.

22 Q Is this diagram a fair and accurate depiction of
23 the scene and the evidence that you recovered as you
24 processed it on January 3rd, 2012?

25 A Yes, it is.

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1 MS. CHU: At this time, your Honor, I would
2 offer it into evidence as People's 1.

3 THE COURT: Any objection?

4 MR. WALENSKY: No.

5 THE COURT: In evidence.

6 (Whereupon, the diagram was marked as People's
7 Exhibit 1 in evidence.)

8 Q Now, Detective, how many things did you recover
9 from this apartment?

10 A I recovered eleven pieces of evidence.

11 Q Okay.

12 Can you tell us what they were?

13 A Yes.

14 THE WITNESS: May I refer to my notes again,
15 Judge?

16 THE COURT: Go ahead.

17 What are you referring to?

18 THE WITNESS: Excuse me?

19 THE COURT: What are you referring to?

20 THE WITNESS: These are my scene photos that I
21 took on the day of the crime.

22 THE COURT: Okay, go ahead.

23 A Okay. The first piece of evidence I recovered was
24 a black sock with possible bloodstains.

25 THE COURT: A black sock?

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1 THE WITNESS: Yes, sir.

2 THE COURT: Okay.

3 A The second piece of evidence was a pair of blue
4 jeans with a black belt.

5 THE COURT: Go ahead.

6 A Third piece was a brown long-sleeved shirt with
7 possible bloodstains.

8 THE COURT: Brown long-sleeved shirt?

9 THE WITNESS: Yeah.

10 A The jeans also had possible bloodstains, I'm sorry.
11 Fourth piece was a white towel with possible
12 bloodstains.

13 THE COURT: Go ahead.

14 A Number five and six were prescription pill bottles.

15 THE COURT: Prescription...

16 THE WITNESS: From the drugstore, the pill
17 bottles, the brown ones.

18 THE COURT: Oh, pill bottles.

19 THE WITNESS: Yeah.

20 A Number seven was a washcloth with possible
21 bloodstains.

22 And numbers eight through eleven were swabs of
23 possible blood.

24 Q Where were those swabs taken from?

25 A Number eight was taken from a nightstand on the

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1 west side of the bed.

2 Number nine was taken from a kitchen cabinet.

3 Number ten was taken inside the tub in the
4 bathroom.

5 And number eleven was taken from the eastern
6 bathroom wall.

7 Q Now, did you indicate -- I'm sorry.

8 Did you label any of these items with any specific
9 label?

10 A Yes, each item was labeled one through eleven, with
11 my initials in front of each number.

12 Q So your initials are what?

13 A S-M.

14 Q Each of those pieces of items of evidence that you
15 just mentioned were SM1, SM2?

16 A Through eleven, yes.

17 Q Now, can you tell me, on the diagram that you
18 looked at, People's 1 in evidence, does it depict the areas
19 where you recovered each of those pieces of evidence, SM1
20 through 11?

21 A Yes, it does.

22 MS. CHU: At this time, your Honor, if I can
23 just have it posted.

24 THE COURT: Post it.

25 (Whereupon, the exhibit was posted.)

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1 THE COURT: Put it up higher.

2 Q Detective, --

3 MS. CHU: Your Honor, may the witness step
4 down?

5 THE COURT: You may step down.

6 Q Walk us through, Detective, if you may.

7 THE COURT: Go to the area where the Officer
8 is, okay. Proceed.

9 (Whereupon, the witness stepped down from the
10 witness stand and approached the exhibit.)

11 Q Just walk us through this scene that you have the
12 diagram for.

13 A Sure. This is the front door (indicating), the
14 front entrance door, the only door in the whole apartment
15 entering and exiting.

16 This is where the body was (indicating).

17 THE COURT: Just move back a little.

18 Go ahead.

19 Q Go ahead.

20 A This is where the victim's body was, it's on top of
21 the bed here (indicating).

22 This is the living area, right here (indicating),
23 basically this whole area, with the kitchen located right
24 here (indicating). And then through this doorway here
25 (indicating) is the bathroom.

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1 Over here is the legend which tells you SM Number 1
2 was the sock, each piece of evidence, number 2 right here
3 (indicating) is the blue jeans, number 3 is the brown shirt,
4 number 4, is the towel. Number 4 is here (indicating).

5 Number 5 and 6 are under the bed, the pill bottles.

6 Number 7 is the washcloth, which we found right
7 here (indicating) in the bathroom sink.

8 And numbers 8 through 11 were swabs of possible
9 blood, which were -- let's see, number 8 is here (indicating)
10 on the end table, number 9 is the kitchen cabinet, number
11 10 is in the tub, and number 11 is on the wall of the
12 bathroom.

13 Q Now, as a detective from Crime Scene would you be
14 able to determine when that blood got on these articles that
15 you took swabs from?

16 A No.

17 Q Now you can have seat.

18 (Whereupon, the witness resumed the witness
19 stand.)

20 Q What did you do with the actual pieces of
21 evidence?

22 A I packaged -- well, I initially photographed
23 them, I measured them, as to where they were recovered, I
24 then packaged them and then I hand delivered them to a
25 police officer from the 83rd Precinct, Police Officer

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1 Ortiz -- I'm sorry, Police Officer Carlin -- for vouchering
2 purposes.

3 THE COURT: Police officer who?

4 THE WITNESS: Carlin.

5 MS. CHU: Christian Carlin.

6 THE COURT: Okay.

7 Q Now, did you --

8 How did you package each of the items?

9 A Each of the items of clothing, any type of clothing
10 has to be packaged in paper, and the swabs are packaged in, I
11 guess we can say it's like a tube, it's a secure tube that is
12 taped up so it can be sent for DNA testing.

13 Q Is that like a plastic tube?

14 A Plastic, yeah.

15 Q Now, did you process the scene at all for latent
16 prints?

17 A No.

18 Q Now, I want to show --

19 You said you had taken photos of the scene?

20 A Yes.

21 MS. CHU: Your Honor, I have People's -- I'd
22 like these deemed People's 1 through 41.

23 THE CLERK: Two.

24 MS. CHU: Two through 41 for identification.

25 THE COURT: Two to 41?

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1 MS. CHU: Yes.

2 MR. WALENSKY: I have no objection, your
3 Honor, to them being entered into evidence.

4 THE COURT: All right. You are offering them
5 into evidence?

6 MS. CHU: Yes.

7 THE COURT: They're in evidence.

8 (Whereupon, the photographs were marked as
9 People's Exhibits 2 through 41 in evidence.)

10 MR. WALENSKY: Your Honor, if I can have --

11 THE COURT: Bring down the screen.

12 (Whereupon, an exhibit was displayed.)

13 Q Detective, can you just tell us, looking at
14 People's 2 in evidence, what is this a photograph of?

15 A That's a photograph of the Crime Scene Unit
16 envelope, that is the cover sheet.

17 Q Okay.

18 And did you prepare this?

19 A I did.

20 Q Is this your handwriting?

21 A It is.

22 Q Thank you.

23 (Whereupon, the exhibit was displayed.)

24 Q People's 3 in evidence, what are we looking at
25 here?

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1 A That's the entrance door to the apartment.

2 Q Okay.

3 Looking at People's 4 in evidence.

4 (Whereupon, the exhibit was displayed.)

5 Q What is this?

6 A It's the same apartment door, just a closer view
7 into the kitchen.

8 Q Where would the kitchen be, if you were looking at
9 this photograph?

10 A Straight ahead.

11 Q Straight ahead?

12 A Uh-huh.

13 Q Take a look at People's 5 in evidence.

14 (Whereupon, the exhibit was displayed.)

15 A That's from the doorway towards the kitchen.

16 Q Can you tell me, I see there's some things on the
17 floor. What was that?

18 A It appeared to be blood and it appeared to be human
19 feces on the floor, also looked like someone tried to wipe it
20 with some sort of piece of cloth of some sort.

21 Q People's Number 6.

22 (Whereupon, the exhibit was displayed.)

23 Q What is this a picture of?

24 A That's from the kitchen into the living area. I'm
25 sorry. That is from the living area into the kitchen. I'm

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1 sorry.

2 Q So where would the front door be in this
3 photograph?

4 A To the right of the photo.

5 Q So this door right here (indicating) is the front
6 door?

7 A Yes, it is.

8 Q Taking a look at People's 7 in evidence.

9 (Whereupon, the exhibit was displayed.)

10 Q What is this a picture of?

11 A That's just an opposite view of the previous photo.
12 It shows the victim laying on the bed.

13 Q Do you see the entrance door to this apartment in
14 the photograph?

15 A I think you can see a little bit of it on the
16 bottom left.

17 Q This is it here (indicating)?

18 A Yes.

19 Q If you could, which way would you turn to get this
20 view if you're --

21 A If you walk into the apartment, you'd have to look
22 to your left.

23 THE COURT: He's facedown or face up in that
24 picture?

25 THE WITNESS: I believe he's face up.

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1 Q Okay.

2 That was People's 7, right.

3 Taking a look at People's 8 in evidence.

4 (Whereupon, the exhibit was displayed.)

5 Q What is this a picture of?

6 A That's the floor of the living area between the
7 kitchen and the living area, I should say, and on the left
8 side is the blue jeans that I vouchered.

9 Q Okay.

10 You had mentioned there was feces that was smeared
11 on the floor. Do you see that in this picture?

12 A Yes, it's more toward the end of the photo.

13 Q Right next to this shirt here (indicating)?

14 A Yes.

15 Q Or this article of clothing?

16 A Yes.

17 Q Now, would the kitchen be --

18 Do you see the cabinets of the kitchen in that
19 photograph?

20 A I believe they are to the top, top right.

21 Q So this right here (indicating)?

22 A Yes.

23 Q That would be where the kitchen cabinets are?

24 A Yes.

25 Q Thank you.

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1 Taking a look at People's 9 in evidence.

2 (Whereupon, the exhibit was displayed.)

3 Q What is this a picture of?

4 A That is a photo of the victim laying on the bed in
5 a northbound photo. The kitchen would be on the left-hand
6 side and the front door on the left top portion.

7 THE COURT: He is facedown, isn't he?

8 THE WITNESS: I believe that's face up. He
9 was badly decomposed.

10 Q Okay.

11 Taking a look at People's 10 in evidence.

12 (Whereupon, the exhibit was displayed.)

13 A That's another view of the victim from the left
14 side of the bed. That's kind of from the doorway area
15 towards the victim.

16 Q Okay.

17 At this point, had you touched the victim at all?

18 A Not yet, no.

19 Q Taking a look at People's 11 in evidence, can you
20 tell me, what is this a picture of?

21 A It's a close-up photo of his chest. The right-hand
22 portion of the picture would be his neck.

23 Q You were unable to make a determination based upon
24 the decomposition as to whether or not he had any injuries or
25 fresh injuries?

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1 A It's usually the medical examiner's call but we
2 didn't make a determination at that time, no.

3 Q Okay.

4 Taking a look at People's 12 in evidence.

5 (Whereupon, the exhibit was displayed.)

6 A That is a photo of the bathroom from the living
7 area.

8 Q Okay.

9 Where would the bed be if I were standing here
10 taking this picture?

11 A It would be to your right.

12 Q To the right of me?

13 A Yes.

14 Q Taking a look at People's 13 in evidence.

15 (Whereupon, the exhibit was displayed.)

16 A Just an opposite view of the previous photograph.
17 It's the bathroom looking out into the living area.

18 Q And this item right here, can you see
19 (indicating)?

20 A No, not really.

21 MS. CHU: That doesn't make it any better,
22 okay.

23 Q Taking a look at People's 14 in evidence, what is
24 this a picture of?

25 A That's the bathroom floor.

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1 Q And this area to the right top of the photograph,
2 what is that (indicating)?

3 A That would be the tub.

4 Q The tub?

5 A Yeah.

6 Q Where would the toilet be in relation to the tub?

7 A Same side as the tub, just a little bit down in the
8 photograph.

9 Q So off the picture?

10 A Right.

11 Q So on like the -- right on the bottom left?

12 A Correct.

13 Q Taking a look at People's 15 in evidence, what is
14 this a picture of?

15 (Whereupon, the exhibit was displayed.)

16 A That's a photo of the sink with the washcloth in
17 the basin.

18 Q Okay.

19 Taking a look at People's 16 in evidence.

20 (Whereupon, the exhibit was displayed.)

21 A That's a view of the bathroom wall with the
22 possible bloodstains.

23 Q If you can just -- there's --

24 There should be a remote control right in front.

25 If you push the red button, you will see it's a laser

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1 pointer.

2 A Right here (indicating).

3 THE COURT: Possible what stains?

4 THE WITNESS: Blood.

5 Q So they were on the wall? There are speckles on
6 the tile?

7 A Yes.

8 Q Okay.

9 Taking a look at People's 17 in evidence.

10 (Whereupon, the exhibit was displayed.)

11 A That's also some possible bloodstains that were
12 located on the bathroom wall.

13 Q Where --

14 Which wall would this be closest to in the
15 bathroom?

16 A That would be the wall closest to the toilet.
17 That's the toilet on the bottom of the photo. It would be
18 the right-hand side of the toilet. If you were sitting on
19 the toilet, it would be the right-hand side right wall.

20 Q So if you're sitting on the toilet, this bloodstain
21 (indicating) would be on your right-hand side?

22 A Correct.

23 Q Okay.

24 Taking a look at People's 18.

25 (Whereupon, the exhibit was displayed.)

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1 A That would be possible bloodstains on the wall from
2 the bathroom near the doorway.

3 Q So that would be on the left side of the toilet, if
4 you're sitting down?

5 A That -- yes, I believe so.

6 Q So that's -- I'm sorry.

7 This right here (indicating) on the photograph, is
8 that the tub?

9 A Yes, it is. It's hard to see.

10 That is the tub and that is the left side of the
11 toilet wall, yes.

12 Q Taking a look at People's 18 in evidence.

13 (Whereupon, the exhibit was displayed.)

14 THE COURT: I thought you did 18.

15 MR. WALENSKY: That was 18. This is 19.

16 MS. CHU: Nineteen, I'm sorry.

17 Q What is this a picture of?

18 A That's a photograph of the end table to, I guess
19 you'd say, the left side of the bed. If you were looking
20 from the bottom of the bed, that would be to the left
21 side.

22 THE COURT: What are those stains?

23 THE WITNESS: We took a swab thinking it might
24 possibly be some bloodstains. It also appears it's like
25 fecal matter as well.

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1 Q This is where you had taken one of the samples from
2 blood that you had mentioned earlier?

3 A Yes.

4 Q Taking a look at People's 20 in evidence.

5 (Whereupon, the exhibit was displayed.)

6 A Those markers indicate the pieces of evidence which
7 were recovered, if you're looking at the bed from the bottom,
8 the left side, and the same evidence which I previously
9 mentioned on the sketch.

10 Q Who put those markers there?

11 A I did.

12 Q Did those correspond with the items of evidence
13 that you had recovered and processed?

14 A Yes, they do.

15 Q Can you walk us through? It's 1 through 6, right?

16 A Yes.

17 THE WITNESS: Judge, I am going to refer to my
18 notes again.

19 THE COURT: Go ahead.

20 A Number 1 is the sock.

21 Number 2 is the blue jeans.

22 THE COURT: Hold on.

23 A Sorry.

24 THE COURT: Go ahead.

25 A Number 3 is the shirt.

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1 THE COURT: Brown shirt?

2 THE WITNESS: Yes.

3 A Number 4 is the white towel.

4 Numbers 5 and 6 are the pill bottles.

5 Q Okay.

6 Looking at People's 21 in evidence, what is this?

7 (Whereupon, the exhibit was displayed.)

8 A Number 5 and 6 are depicting the pill bottles which
9 are located underneath the bed.

10 Q And these smears that are on the floor, is that the
11 fecal matter and blood that you had referred to earlier?

12 A It appeared to be a mixture, yes.

13 Q Taking a look at People's 22.

14 (Whereupon, the exhibit was displayed.)

15 Q What is this?

16 A It's a close-up view of number 1, which was the
17 sock.

18 Q Okay.

19 Taking a look at People's Number 23.

20 (Whereupon, the exhibit was displayed.)

21 A That is a close-up -- excuse me -- close-up view of
22 the jeans.

23 Q Now, were you able to determine what size the jeans
24 were?

25 A I think so.

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1 They were size 36, 32. Thirty-six waist, 32
2 length.

3 Q Taking a look at People's 24.

4 (Whereupon, the exhibit was displayed.)

5 A It is a close-up view of the brown shirt.

6 Q And that was what you had labeled SM3?

7 A Yes.

8 Q Taking a look at People's 25.

9 (Whereupon, the exhibit was displayed.)

10 A That's a close-up view of number 4, which is the
11 towel, SM4.

12 Q Okay.

13 Taking a look at People's 26.

14 (Whereupon, the exhibit was displayed.)

15 A That's a close-up view of the washcloth in the
16 basin, which was SM7.

17 Q Taking a look at People's Number 27.

18 (Whereupon, the exhibit was displayed.)

19 A That's the same photo as the previous photograph
20 with a crime scene scale.

21 Q What do you mean, a crime scene scale?

22 A It's six inches long and gives a general idea how
23 long a piece of evidence was.

24 Q So you can get perspective?

25 A Yes.

Det. Markoski - People - Direct/Ms. Chu

1 Q People's 28 in evidence.

2 (Whereupon, the exhibit was displayed.)

3 A That's the two pill bottles that were recovered
4 from under the bed, close-up view, with the scales.

5 Q Okay.

6 People's 29.

7 (Whereupon, the exhibit was displayed.)

8 A That's number 5, close-up view of SM5 with a
9 scale.

10 Q Okay.

11 Number 6 -- I'm sorry.

12 Number 30, I'm sorry.

13 (Whereupon, the exhibit was displayed.)

14 A Close-up view of number 6 with a scale.

15 Q Taking a look at People's 31.

16 A That's the end table next to the bed where I
17 recovered the swab. The scale indicates the area where I
18 took the swab from.

19 Q This blue marker right here (indicating)?

20 A Yes.

21 Q Okay.

22 People's 32.

23 (Whereupon, the exhibit was displayed.)

24 A That's just a close-up view of the previous
25 photograph.

Det. Markoski - People - Direct/Ms. Chu

1 Q Okay.

2 People's 33 in evidence, what is this?

3 (Whereupon, the exhibit was displayed.)

4 A That is a view of the kitchen cabinets with the
5 possible bloodstains on them.

6 Q This would be in the kitchen area of the
7 apartment?

8 A Yes.

9 Q Okay.
10 Now, can you tell me, what is People's 34?

11 (Whereupon, the exhibit was displayed.)

12 A That's the same photo as the previous photo. The
13 scale is depicting the area where I recovered the blood swab,
14 the possible blood swab.

15 Q Okay.

16 People's 35.

17 (Whereupon, the exhibit was displayed.)

18 A Just a closer view of the previous photograph,
19 SM9.

20 Q Do you know what this is on the left-hand side
21 (indicating)?

22 A At first we didn't but then I think we thought it
23 might be just someone had thrown food around the apartment.
24 It appeared to be some sort of tomato sauce or something like
25 that.

Det. Markoski - People - Direct/Ms. Chu

1 Q Okay. That was 35. Now we are on to 36.

2 (Whereupon, the exhibit was displayed.)

3 A That's the bathroom wall with the possible
4 bloodstains.

5 Q Exhibit 37.

6 (Whereupon, the exhibit was displayed.)

7 A That's also a bathroom wall with the possible
8 bloodstains.

9 Q People's 38.

10 (Whereupon, the exhibit was displayed.)

11 A That's the bathroom wall with the possible
12 bloodstains. The scale is depicting the area where the swab
13 was recovered.

14 Q So that's the actual sample that you took it from?

15 A Yes.

16 (Whereupon, the exhibit was displayed.)

17 Q Taking a look at People's 39.

18 A That's a view of the tub.

19 Q Okay.

20 Taking a look at 40.

21 (Whereupon, the exhibit was displayed.)

22 A That's a view of the tub with the scale indicating
23 the area where the swab was recovered.

24 Q Okay.

25 And People's 41.

Det. Markoski - People - Direct/Ms. Chu

1 (Whereupon, the exhibit was displayed.)

2 A Close-up view of the previous photograph, SM Number
3 10.

4 Q Okay.

5 Thank you very much, Detective.

6 MS. CHU: If I can have one moment, your
7 Honor.

8 (Whereupon, there was a brief pause in the
9 proceedings.)

10 Q How long were you at the scene?

11 A I was at the scene for about five-and-a-half hours.

12 Q And you said that the apartment was cold when you
13 got there. What did you mean by that?

14 A Well, it was -- it was January and it didn't appear
15 that there was any heat in the apartment and I think the
16 temperature that we took when we were there was 28 degrees.
17 The medical examiner took that temperature while we were
18 examining the body.

19 Q The room temperature was 28 degrees?

20 A Yes.

21 MS. CHU: Thank you very much.

22 I have nothing further.

23 THE COURT: Cross.

24 CROSS-EXAMINATION

25 BY MR. WALENSKY:

Det. Markoski - People - Cross/Mr. Walensky

1 Q Detective, did anybody move the body while you were
2 there to take photos?

3 A Yes.

4 Q Did you move it or did another officer?

5 A My partner and the medical examiner moved it while
6 I took the photographs.

7 Q And the body actually was not north -- not north to
8 south on the bed, wasn't it on an angle or sideways?

9 A No, the body was in a north to south direction as
10 you can see on the sketch here.

11 Q Is that how the body was when you came in? That's
12 what I mean.

13 A Yes.

14 Q Prior to moving?

15 A Yes.

16 Q You weren't a witness to this crime, were you?

17 A No, sir.

18 Q Did you take a swab of the blood spattering on the
19 doorway of the bathroom? There was some on the wall and then
20 some on the doorframe.

21 A The only swabs I took are the ones I testified to.

22 MR. WALENSKY: Where are the pictures? Can I
23 have the photos? Can I have 18, 16, 17 and 18?

24 (Whereupon, the exhibits were handed to
25 counsel.)

Det. Markoski - People - Cross/Mr. Walensky

1 THE COURT: Lights.

2 (Whereupon, the exhibit was displayed.)

3 Q Did you take a swab from this area (indicating),
4 either the doorframe --

5 THE COURT: It's not a doorframe. It's -- I
6 don't know if -- what is your view of this?

7 THE WITNESS: To be honest with you, I am kind
8 of having trouble recognizing that photograph.

9 Q I'd like you to take a look at the photograph
10 directly, then. I think it actually shows it better.

11 MS. CHU: What number was that?

12 MR. WALENSKY: This is, I believe, photo 18.

13 (Whereupon, the exhibit was handed to the
14 witness.)

15 MS. CHU: I have the photograph number written
16 small along the edge.

17 THE WITNESS: Okay.

18 Q That is from the inside of the bathroom?

19 A Yes.

20 Okay, that picture is depicting the possible
21 bloodstains, they are to the left side of the wall -- I'm
22 sorry -- left side of the toilet along the wall.

23 Q That is the one you took bloodstains from, you took
24 swabs?

25 A I took actually from the opposite side.

Det. Markoski - People - Cross/Mr. Walensky

1 Q You didn't take any swab from --

2 A From the left side of the toilet?

3 Q Yeah.

4 A No, I took it from the right side of the toilet.

5 Q Can you show that photo to the jury over there?

6 THE COURT: Is that the right side?

7 THE WITNESS: There was bloodstains on both
8 sides of the toilet.

9 THE COURT: Is this photo of the right side of
10 the toilet?

11 THE WITNESS: No, sir, that's the left.

12 THE COURT: Possible bloodstains from the left
13 side of the toilet?

14 THE WITNESS: Yes, sir.

15 THE COURT: Wall, right?

16 THE WITNESS: Yes.

17 Q Is the bathtub in here?

18 A Yes.

19 Q And the toilet is here (indicating)?

20 (Whereupon, the exhibit was displayed.)

21 A That is a bucket.

22 Q You can't see it?

23 A Yes.

24 Q There were no --

25 There is no swab there?

Det. Markoski -- People -- Cross/Mr. Walensky

1 No swabs were taken from these stains here
2 (indicating), where my thumb is?

3 A No, I took it from the other side of the toilet.

4 THE COURT: I don't understand.

5 Those little specks there?

6 THE WITNESS: Yes.

7 THE COURT: Are those possible bloodstains?

8 THE WITNESS: Possible, yes.

9 THE COURT: You took the photo of this? You
10 took the photo of them?

11 THE WITNESS: Yes.

12 THE COURT: Were any possible bloodstains on
13 the wooden frame?

14 THE WITNESS: On the wooden frame,
15 possibility, yes.

16 THE COURT: Did you swab it?

17 THE WITNESS: No, sir. I swabbed the other
18 side of the toilet.

19 THE COURT: Okay.

20 (Whereupon, the exhibit was displayed.)

21 Q I'm pointing down here (indicating). This is the
22 other side of the toilet, right, the right side? You took
23 your swab from that side (indicating)?

24 A Yes.

25 Q You didn't take it from what would be this side

Det. Markoski - People - Cross/Mr. Walensky

1 (indicating). I just want to get it clear.

2 All right, thank you.

3 And after you --

4 When was the last time prior to coming in today,
5 last time you reviewed this file?

6 A I had a preparation with the District Attorney a
7 couple of months ago.

8 Q So you came in today and looked at your notes and
9 testified, right?

10 A Yes, sir.

11 Q And, really, your job is really collecting evidence
12 and photographing or trying to preserve a scene?

13 A Correct.

14 MR. WALENSKY: Thank you.

15 I have no further questions.

16 THE COURT: You may step down. Thank you very
17 much.

18 THE WITNESS: Thank you.

19 (Whereupon, Detective Markoski stepped down
20 from the witness stand and exited the courtroom.)

21 THE COURT: Come on up.

22 (Whereupon, a sidebar conference was held off
23 the record.)

24 THE COURT: Ladies and gentlemen, at this time
25 we are going to adjourn for the evening.

Proceeding

1 Do not discuss the case amongst yourselves or
2 with anyone else. Do not visit the place where the
3 alleged crimes occurred. Have no contact with any of
4 the parties involved in this matter, including the
5 Court.

6 Again, do not resort to utilizing any digital
7 or electronic device for the purpose of obtaining any
8 information or contacting anyone about this case. That
9 proscription against the use of your digital, electronic
10 devices is based on the fact that the courtroom is the
11 place to determine the truth of what occurred, in other
12 words, and you do that or that's done in this setting
13 because the attorneys have the opportunity to examine
14 and question the witnesses. If you go outside of the
15 courtroom to seek information about this matter, you
16 will not have that examination, you will not have that
17 ability to hear anything about the retrieval of that
18 evidence or the value of that evidence, et cetera.

19 This is the testing ground, the courtroom,
20 nowhere else, so that's why you're told not to use any
21 outside sources.

22 All right.

23 So, we are going to adjourn till tomorrow ten
24 o'clock. And again, have a very good evening. See you
25 tomorrow at 10:00.

Proceeding

1 SERGEANT: Ladies and gentlemen, just leave
2 your booklets on the seat and the pens.

3 THE COURT: You have to be here at ten
4 o'clock.

5 What is the problem you have? You had your
6 hand up?

7 JUROR: How long do I advise my job I will be
8 away from work?

9 THE COURT: I just said that we are not going
10 to be meeting on Thursday and Friday and we'll be back
11 on Tuesday of next week, okay.

12 SERGEANT: Just put your juror number on the
13 booklet.

14 (Whereupon, the Jury exited the courtroom.)

15 THE COURT: Mr. Walensky, what do you have?

16 MR. WALENSKY: Yes, your Honor.

17 In my opening I made reference of the fact
18 that Ms. Wisdom wasn't charged with any larcenies, any
19 robberies. The Court -- it appeared the People had not
20 made a Molineux application.

21 THE COURT: That's true.

22 MR. WALENSKY: And the Court had indicated
23 that, sua sponte, they were going to give --

24 THE COURT: I am -- not sua sponte. The truth
25 of the matter is, you know, I'm not sure I should give a

Proceeding

1 Molineux.

2 MR. WALENSKY: That was my --

3 THE COURT: A Molineux ruling.

4 MR. WALENSKY: I think it would be error
5 because it's not for the Court to try the People's case,
6 of course, and --

7 THE COURT: I am not trying the People's case.
8 All I'm saying is that it wasn't made, the Molineux
9 application wasn't made, and I don't believe the
10 reference to -- well, there's some question now as to
11 the reference to the wallet being taken and benefits,
12 Welfare benefits being utilized by the defendant; isn't
13 that true?

14 MS. CHU: No, there is no allegation as to
15 that. What happens, she in her own statement says, I
16 take his Welfare card. She admits that in her statement
17 to the police officers, that she took the card but she
18 denies using it. So what I was planning on doing was
19 submitting the EBT records for Mr. Wilson's card to show
20 that after the date of November 29th, 2011 her phone
21 use, her phone numbers and EBT where she frequented was
22 being used.

23 THE COURT: Frequented? She goes to Welfare?

24 MS. CHU: To different places to use her EBT
25 card than the victim would go. So the victim --

Proceeding

1 THE COURT: But the EBT card was used post?

2 MS. CHU: I am not making an allegation that
3 she was the one that did it. After he died, that EBT
4 card was not used at his usual locations, it was now
5 being used in areas where she used to frequent.

6 MR. WALENSKY: It's prejudicial. It's the
7 only stores in the neighborhood. She said she went to
8 the woman's house and left the wallet and the woman very
9 well --

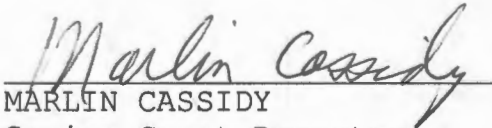
10 THE COURT: Then what I would suggest is that
11 if you want me to give a curative charge to the jury, I
12 will, regarding those items.

13 If you will have one tomorrow, I'll look at it
14 and I will indicate to the jury she's not being charged
15 with any crime other than this crime and they are not to
16 take into consideration that, the testimony regarding
17 those items, all right, have no bearing on her guilt or
18 innocence.

19 All right, tomorrow.

20 (Whereupon, the trial was adjourned to July 1,
21 2014.)

22 *****
23 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF
24 THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS
25 PROCEEDING.


MARLIN CASSIDY
Senior Court Reporter